

November 18, 2025

The Honorable Mike Rogers
U.S. House of Representatives
Armed Services Committee
2216 Rayburn House Office Building
Washington DC 20515

The Honorable Adam Smith
U.S. House of Representatives
Armed Services Committee
2264 Rayburn House Office Building
Washington DC 20515

The Honorable Roger Wicker
United States Senate
Armed Services Committee
228 Russell Senate Office Building
Washington DC 20510

The Honorable Jack Reed
United States Senate
Armed Services Committee
228 Russell Senate Office Building
Washington DC 20510

Dear Chairman Rogers, Ranking Member Smith, Chairman Wicker, and Ranking Member Reed:

On behalf of the undersigned higher education associations, representing the full spectrum of American postsecondary education, we write to offer comments on provisions being considered as you conference the Fiscal Year (FY) 2026 National Defense Authorization Act (NDAA) (H.R. 3838, S. 2296). We also wish to emphasize the priorities and concerns shared by the Association of American Universities and the Association of Public and Land-grant Universities in their Nov. 3, 2025, letter,¹ including the shared concerns outlined below.

In the final, conferenced NDAA, we ask the conferees to continue to support Department of Defense programs at our institutions of higher education that foster a strong and prosperous United States. Below is a list of specific policy concerns.

Support for including Section 214, H.R. 3838, and Section 220C, S. 2296 “Extension of limitation on availability of funds for fundamental research collaboration with certain academic institutions”

We support the inclusion of Sec. 214 of H.R. 3838 and Sec. 220C of S. 2296, which extends the FY 2025 NDAA policy that prohibits DOD-funded research projects if any current or pending support is provided to an individual by an institution on the 1286 list. The 1286 list is a list of foreign institutions engaging in problematic activity as described in Section 1286 of the National Defense Authorization Act for FY 2019.² We appreciate that this prohibition is focused on an existing, regularly updated list that our institutions regularly consult and that the bill sections are aligned with the current research security infrastructure being enacted by the federal research agencies.

Support for including Section 226, S. 2296 “Prohibition on modification of indirect cost rates for institutions of higher education and nonprofit organizations”

¹ November 3, 2025 Joint AAU-APLU FY26 NDAA conference letter: <https://www.aau.edu/key-issues/fy26-ndaa-conference-letter>

² Fiscal Year 24 Lists Published in Response to Section 1286 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232), as amended:
https://basicresearch.defense.gov/Portals/61/Documents/Academic%20Research%20Security%20Page/FY24%20Section%201286%20List%20for%20public%20release_V2.pdf?ver=KqtK4tL1wLDoUwe2yxWHSw%3D%3D

We appreciate the bipartisan efforts to allow for thoughtful consideration of any future policy changes to the current indirect cost rates for federally funded research. The Joint Association Group (JAG) and the larger higher education community have been working to develop a new model for Facilities & Administrative (F&A) cost reimbursement, referred to as the Financial Accountability in Research (FAIR) model,³ which addresses bipartisan concerns around transparency and accountability of federal research dollars. As you are aware, Congress has also included language in several FY 2026 appropriations that blocks efforts to suddenly change current F&A regulations. The language included in the Senate FY 2026 NDAA does not supplant these efforts, it simply ensures that the Department of Defense works with the stakeholder community on a consensus-driven solution like the FAIR model. We hope the conferees will consider including the Senate language in the final FY 2026 NDAA, as it will support the efforts to engage with stakeholders regarding a new indirect cost rate model for federally funded research at DOD.

Oppose inclusion of Section 216, S. 2296, “Prohibition on contracts between certain foreign entities and institutions of higher education conducting Department of Defense-funded research”

Section 216 of S. 2296 includes a new prohibition on contracts for institutions of higher education with foreign entities of concern. This language is largely duplicative of existing research security requirements and will add a new layer of conflicting requirements for institutions to implement. At a minimum, this provision needs revisions to ensure alignment with current research security infrastructure being implemented by the federal agencies. Necessary revisions include narrowing the prohibition to collaborations directly related to DOD funded research and an exemption for tuition and fees under the definition of contract.

Oppose inclusion of Subtitle D- SAFE Research Act, H.R. 3838

U.S. colleges and universities acknowledge the threats posed by foreign malign actors and governments that seek to undermine U.S. national security through economic espionage and malign influence activities. Our community has worked closely for the past several years with various federal agencies to address these threats and to address bipartisan national security concerns. We oppose the inclusion of the SAFE Research Act in the final conferenced FY 2026 NDAA because we consider it problematically broad as well as duplicative of existing requirements. In many instances, it conflicts with existing research security provisions supported by the House and Senate Armed Services Committees in previous NDAAs. We also share the concerns outlined by AAU and APLU in their joint Oct. 15, 2025, letter opposing the SAFE Research Act.⁴

As written, the SAFE Research Act includes a broad prohibition on federal research awards to individuals and institutions. Sec (a) includes a “government-wide prohibition” that would apply to all federal research agencies, not just DOD. The SAFE Research Act did not move through regular congressional order with a markup or hearings at the various authorizing committees, including the House Science Committee, which has oversight of National Science Foundation, or House Energy and Commerce, which authorizes programs at the National Institutes of Health. If this broad prohibition moves forward, we believe it should go through regular order to allow for engagement with stakeholders, as well as thoughtful feedback on its broad impact.

³ Sept. 5, 2025 JAG Statement on FAIR model: <https://www.acenet.edu/News-Room/Pages/JAG-Statement-on-Adopting-FAIR-Model.aspx>

⁴ October 2025 AAU and APLU joint letter expressing concerns with SAFE Research Act: <https://www.aau.edu/key-issues/aau-expresses-concerns-ndaas-safe-research-act>

Section (b) of the SAFE Research Act would also create a new waiver process that duplicates and complicates the existing research security waiver processes already in place at the DOD⁵ and the National Science Foundation.⁶ These current processes were established by Congress—including through previous NDAA— and creating an additional, separate system would introduce unnecessary confusion for institutions and agencies alike.

Sec. 1739 of the legislation also includes “post-award” restrictions, which, in Section 2, would create a requirement for institutions to certify compliance for individual researchers five years after the federally funded research has been concluded. It is incredibly difficult, if not impossible, for institutions to track a researcher as well as certify actions taken by the individual if that researcher is no longer employed by the institution. This would be better enforced through an amendment to federal grant agreements or post-award research security training for researchers.

The new requirements created in the SAFE Research Act do not acknowledge, align with, or incorporate the existing disclosure requirements for individuals or institutions. In addition, the scope and breadth of the new requirements included in the SAFE Research Act would end all engagement with universities in countries such as China and would have a chilling effect on any desire among researchers to work with Chinese partners or Chinese graduate students. Such an impact would stifle the full innovation potential of researchers at American institutions and risk ceding the nation’s global research preeminence.

Oppose inclusion of Section 218, H.R. 3838, “Post-employment restrictions for participants in certain defense research”

Section 218 of the House FY 2026 NDAA would create post-employment restrictions on DOD-funded researchers with a required three-year reporting period. Like the post-employment restrictions included in the SAFE Research Act, this would put the reporting and certification requirements on the institution rather than the funding research agency. As discussed above, it would be impossible for institutions to comply if a researcher separates from the institution during that period. It would be better addressed through post-award training or through requirements and certification by the funding agency. We therefore ask that this language be removed from the final conferenced bill or at a minimum, be amended to a state that is implementable.

Oppose inclusion of Section 1049, H.R. 3838, “Prohibition on availability of funds for institutions of higher education that allow antisemitic demonstrations”

Section 1049 of the House FY 2026 NDAA includes language that would prohibit funds appropriated or authorized under DOD for institutions of higher education that experience antisemitic protests and do not “take action to mitigate and prevent further antisemitic demonstrations.” We continue to share concerns about the increase in antisemitic activities on campus, and our institutions are continuing to work to address these issues. In addition, we are concerned about how this language would interact with existing Title VI obligations. Because of this, we urge Congress not to include this language in the final bill.

⁵ Waiver process as established under Section 1062 of the FY 2021 NDAA: <https://rt.cto.mil/wp-content/uploads/2025/03/Confucius-Institute-Waiver-Program-Guidance-28Mar2023.pdf>

⁶ July 2025 NSF update on research security provisions and requirements, including waiver process: <https://www.nsf.gov/notices/important/important-notice-no-149-updates-nsf-research-security/in149>

We appreciate the bipartisan, bicameral efforts to move this important legislation forward, and the hard work by you and your staff throughout the process. Thank you for your time and attention to these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Mitchell".

Ted Mitchell, President

On behalf of:

ACPA-College Student Educators International
American Association of Colleges and Universities
American Association of Colleges for Teacher Education
American Association of State Colleges and Universities
American Association of Veterinary Medical Colleges
American Council of Learned Societies
American Council on Education
Association of American Medical Colleges
Association of American Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Council on Social Work Education
EDUCAUSE
National Association for College Admission Counseling
National Association of College and University Business Officers
National Association of Independent Colleges and Universities