



Federally Funded Research: The Current Landscape

Legal Affairs Monthly Training
Session

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Overview

- I. Executive Orders: Stated Priorities of the New Administration
 - a) Research Security Updates
- II. Litigation Update
- III. Hiring on Grants and Contracts
- IV. Compliance: New Language and Terms
- V. Practical Guidance: Considerations for Researchers When Navigating the Ever-Evolving Legal Environment

I. Executive Orders: Stated Priorities of the New Administration

- Artificial Intelligence and Quantum Computing
 - Removing Barriers to American Leadership in Artificial Intelligence (1/23/2025)
 - Accelerating Federal Permitting of Data Center Infrastructure (7/23/25)
 - Promoting the Export of the America AI Technology Stack (7/23/25)
 - America's AI Action Plan (7/23/25)
 - Thirteen Executive Orders mention AI

I. Executive Orders, continued

- Energy
 - Unleashing American Energy (1/20/2025)
 - Declaring a National Energy Emergency (1/24/25)
 - Establishing the National Energy Dominance Council (2/14/25)
 - Strengthening the Reliability and Security of the United States Electric Grid (4/8/25)
 - Reinvigorating the Nuclear Industrial Base (5/23/25)
 - 40 Executive Orders related to domestic energy production or regulatory changes

I. Executive Orders, continued

- Research Security
 - America First Trade Policy and the Directive to the Secretary of State (1/20/25)
 - Improving the Safety and Security of Biological Research (5/5/25)
 - Restoring Gold Standard Science (5/23/25)
 - Improving Oversight of Federal Grant Making (8/7/25)

I. a) Research Security Updates

- Additional Training for those on NSF Grants
 - ([NOT-OD-25-161](#))
 - Agency cross-referencing
- New [DOJ export controls](#) on bulk sensitive data
 - Countries of concern
- NASA restriction
- If there is *any* international component, affiliation, or collaboration: disclose and work with the [Office of Research Protections and Integrity](#)

Funding Litigation Update

Freezes:

- *APHA v. NIH* (August 21, 2025 SCOTUS Ruling)
 - Holding 1: Contract Disputes → Court of Federal Claims
 - Holding 2: Guidance documents vacated, but more to come
- Facilities & Administrative Fees:
 - What F&A Fees cover
 - Current legal status of caps for NIH, DOE, NSF, and DOD
 - For a deeper dive, please join us for our DII Symposium on October 23rd

Litigation Update Continued

Diversity, Equity, and Inclusion in Research:

- What the recent *APHA v. NIH* Supreme Court Case tells us
- [UNC System Equality Policy](#)
 - Academic freedom in research

Hiring on Grants and Contracts

- Students and Post-Docs
- Other staff positions
 - Temporary staff considerations
- Important to remember:
 - Workers' Compensation Policy
 - Work with HR person to determine FLSA status and timesheet requirements
 - Work closely with post-award management team
 - Transparency and planning
 - Avoid hiring as a contractor/consultant on grant unless it makes the most sense

Compliance: New Language and Terms

- From NSF in relation to a No Cost Extension:
 - “...***If a court decision permits application of such policy, reimbursement of indirect costs for this award must not exceed 15 percent of the modified total direct cost base (MTDC), regardless of whether the recipient has a current Federal negotiated indirect cost rate.*** The recipient must use a rate no greater than 15 percent of MTDC, as defined in 2 CFR § 200.1, for the life of the award, including the award period prior to notification of the application of this term. Excess indirect costs charged to an NSF grant due to use of an incorrect rate will be disallowed. This term and condition supersedes any previously submitted and/or approved budget.”
- From NIST in relation to an Award Amendment:
 - “Incorporated by reference into this U.S. Department of Commerce financial assistance award are the policies set forth in all applicable Executive Orders currently in legal force and effect, including Executive Orders issued on or after January 20, 2025...***The performance of activities that violate or are otherwise inconsistent with requirements under any applicable Executive Order will result in appropriate enforcement action*** pursuant to 2 C.F.R. § 200.339, ***including the disallowance of costs and possible termination of a portion or all of this award.***”



Compliance: New Language and Terms

- From NSF regarding a letter highlighting a “change of priorities:
 - “[Researcher], please provide a letter on behalf of the team, in pdf format, preferably on institutional letterhead, ***that confirms that the project will not preference or limit participation based on a specific demographic or shared experience*** (e.g., first-generation college attendee, race, color, national origin, sex, disability, or age), ***and that any outreach, recruitment, participatory, or research activities will be in alignment with current NSF priorities and comply with applicable legal requirements...***”

Compliance: New Language and Terms

- Emails to Principal Investigators from NSF:
- “[...please address the following items:]”
 - 1. ***Revise the project title and abstract to ensure compliance with current NSF priorities...***
 - 2. ...Draft a 1–2-page response that identifies any aspect of the project that will be modified to better align with NSF updated priorities. Here a few areas you may want to explore but you are not limited to these areas/topics:
 - ***...Expand project recruitment and selection practices that encompass all STEM learners.***
 - ***...Ensure that research and evaluation questions are aligned with current NSF priorities.***
 - ***...Ensure that programmatic activities and any other broadening participation efforts are aligned with current NSF priorities and in compliance with Federal non-discrimination statutes.***
 - ***...Compliance Letter: Please confirm via a statement on institutional letterhead that the project will adhere to Federal non-discrimination statutes and current NSF priorities.”***

Practical Guidance: Considerations for Navigating The Ever-Evolving Legal Landscape

- Expect more change
- Be mindful of the new administration's priorities in light of the recently issued executive orders
- Immediately communicate any changes to your award to the Division of Research
- Ensure that agreements are explicitly contingent upon receipt of funding

Practical Guidance: Considerations for Navigating The Ever-Evolving Legal Landscape

- Review your contracts
 - Make sure you understand the University's obligations
- Always seek to build flexibility for the institution into the agreement for termination, and terms of renewal
- For additional guidance, utilize UNC Charlotte's [Contract Checklist](#)
- Lastly, reach out to the Division of Research or the Office of Legal Affairs if you have questions
 - Reach our office at: legal-affairs@charlotte.edu
 - Reach me at: amerriot@charlotte.edu