CLIENT ALERTS & INSIGHTS

The “China Initiative” Just Won’t Die – Recent DOJ Settlement Highlights the Lasting Effect of Trump-Era Policy on Health Care Institutions

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Authors: Marisa T. Darden, Matthew David Ridings

In 2022, the United States Department of Justice (“DOJ”) announced its decision to shut down the “China Initiative”-the controversial program used to investigate and prosecute academics, health care workers, and businesspeople for failing to disclose ties to the Chinese government. A recent DOJ settlement involving a research hospital indicates, however, that although the China Initiative is ostensibly dead, health care and research institutions may be feeling its effects for years to come.

The Trump administration implemented the China Initiative in 2018 with the stated goal of investigating economic espionage and trade secret theft by the Chinese government and its agents; however, the China Initiative investigated much more. DOJ used the China Initiative to investigate and prosecute academics and health care workers-primarily of Chinese descent-for neglecting to disclose ties to China in federal grant applications. For example, an Ohio State University researcher and medical professor was sentenced to 37 months in prison on charges that he hid his ties to China on federal grant applications. A grand jury indicted a researcher in Illinois on similar charges. Additionally, a University of Florida researcher was indicted on allegations that he failed to disclose affiliations with China in NIH grant applications.

In 2022, DOJ announced that it would be shuttering the China Initiative, citing broader concerns involving “Russia, Iran and North Korea in addition to China.” Notwithstanding the announcement, the effects of the China Initiative are still seen today as DOJ turns its attention from individual researchers with Chinese affiliations to the entities that employed them.

DOJ activity in the Northern District of Ohio indicates that, despite ending the China Initiative, DOJ remains willing to civilly pursue related research institutions. DOJ announced a civil settlement stemming from a failed China-Initiative prosecution of a medical researcher. DOJ dismissed the criminal case against the researcher but nonetheless pursued civil claims against the researcher’s employer, culminating in a several-million-dollar settlement to resolve alleged violations of the False Claims Act arising from the same alleged failure to disclose China ties that formed the basis of the now-dismissed charges against the researcher.

There are a number of takeaways from this settlement. First, despite the change in administration, DOJ is still actively pursuing researchers and their employers over the failure to disclose ties to China. Second, although scrutiny on individual doctors and researchers may be lessening, institutions that seek research grants and funding from the government are still squarely within the government’s crosshairs. Research institutions must scrutinize the financial ties and affiliations of their researchers when applying for federal grant funds and ensure that any application is scrupulous

and accurate in every detail. Finally, research institutions should consult experienced counsel well-versed in these issues.

Should you or your research institution have any questions regarding grant funding, disclosure requirements, and the scrutiny given to funding applications, please contact Benesch's White Collar team. We stand ready to assist with experience and expertise in health care investigations and litigation.

Marisa T. Darden at mdarden@beneschlaw.com or 216.363.4440.

Matthew David Ridings at mridings@beneschlaw.com or 216.363.4512

Parth Y. Patel at ppatel@beneschlaw.com or 216.202.2576