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Associations Urge White House 'Immediately Withdraw' March-in Rights Framework

The Association of American Universities (AAU) and the Council on Governmental Relations (COGR) are among a handful of groups “urging the Biden administration to rescind a policy proposal that would threaten the American innovation system and discourage partnerships between nonprofit research universities and the private sector that help bring cutting-edge technologies to the public,” according to AAU’s Feb. 12 weekly update. The 1980 Bayh-Dole Act “encourages universities and researchers holding patents developed through federally funded research to partner with the private sector to bring new discoveries to market,” AAU explained. The law also “grants federal agencies a limited right to ‘march in’ and to require patent owners to grant additional patent licenses to others.” The National Institute of Standards and Technology in December issued a draft framework that AAU said “reinterprets the Bayh-Dole Act to allow federal agencies to seize patents for drugs or individual products that they deem too expensive.”

AAU commented separately on the framework, writing that, “Without rescission, the existence of this framework as potential agency policy will continue to create uncertainty and confusion for our member institutions and their private sector partners and weaken the powerful engine of innovation and research that is public-private collaboration in the United States.” AAU also joined the American Council on Education, the Association of American Medical Colleges, the Association of Public and Land-grant Universities, AUTM and COGR in a second comment letter. The groups “recommended that the administration immediately withdraw the framework because it violates the spirit and intent of the Bayh-Dole Act and because it would disincentivize private sector partners from licensing advancements made through federally funded research initiatives at nonprofit universities.”

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