

# ARE YOU SCREENING FOR SANCTIONS COMPLIANCE? 4 STEPS BUSINESSES AND SCHOOLS CAN TAKE TO REDUCE AN OFTEN-OVERLOOKED RISK

Insights  
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## Are You Screening for Sanctions Compliance? 4 Steps Businesses and Schools Can Take to Reduce an Often-Overlooked Risk

Are you prepared if OFAC comes knocking at your door? The US Treasury Department appears to be cracking down on companies, private schools, and other entities that unintentionally conduct business with sanctioned foreign nationals. Many businesses, K-12 schools, and higher ed institutions – including those with extensive footprints overseas – are unaware that sanctions still apply to them, creating an expensive risk for any entity working with or even interacting with foreign nationals. Here's a rundown of how federal economic and trade sanctions could apply to your business, school, or institution, and proactive steps to take to avoid OFAC scrutiny and potential fines.

### What is OFAC and Why is This Issue Important?

The Office of Foreign Assets Control is the federal agency that enforces sanctions against certain foreign governments, entities, and individuals who engage in dangerous activity and present threats to national security. It maintains a Specially Designated Nationals (SDN) List that includes the names of individuals, groups, and entities that have been sanctioned and that US businesses are barred from engaging with. In addition to foreign nationals, the list can include US citizens or entities that have violated sanctions rules in the past.

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“Any business, whether hiring or contracting, can encounter someone on the list, regardless of whether it has any international contacts,” said David Jones, managing partner of FP’s Memphis office and co-chair of the firm’s Immigration Practice Group. “And it’s prohibited to do business with those people.”

### **Industry Focus: Sanctions Risks Are Complicated and Common in Education**

OFAC notes that academic institutions face unique risks for sanctions violations because a variety of people may be responsible for paying for their tuition and other school costs.

The agency recommends:

- Screening students, parents, counterparties to tuition agreements, and payors, as well as employees and vendors against OFAC’s SDN List;
- Using available information to understand whether any associated parties are located in a comprehensively sanctioned jurisdiction or otherwise have ties to a sanctioned person or entity;
- Reviewing the parents of currently enrolled students, parents of prospective parents (prior to enrollment), donors or payors on behalf of donors, to ensure they aren’t currently receiving funds from a sanctioned individual or entity; and
- Monitoring payment arrangements that may involve sanctioned persons.

**In sum:** Schools, including private and independent schools, and higher ed institutions should work closely with legal counsel to ensure they are considering all potential relationships that require screening against the SDN list.

### **Penalties For Non-Compliance**

Violations of federal sanctions regulations can result in civil monetary penalties or even criminal charges depending on the amount of money involved and the sanctions law that is violated. Whether an entity self-discloses the violation or

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acts in an “egregious” manner can also impact the penalty amount.

Recent cases brought by OFAC have found that an organization’s failure to screen entities for sanctions violations or demonstrate due diligence regarding sanctions laws when entering into agreements can constitute a willful or reckless violation. Businesses and schools are expected to be aware of sanctions against major foreign adversaries, and claiming lack of knowledge may not shield you from a penalty.

### **Why Does This Matter for Your Business, School, or Institution?**

Violations of these sanctions rules, whether intentional or unintentional, can lead to steep fines and significant reputational harm. Enforcement actions by OFAC have led to six-figure settlements in recent months, reflecting the federal government’s current posture on the issue.

The government expects businesses, individuals, schools, higher ed institutions, and private entities to perform due diligence to ensure that any person or business they hire, contract, or engage with isn’t subject to federal sanctions.

### **What Can You Do to Get Ahead of the Issue?**

Here are four action items that can help you reduce the risk:

**1. Training.** Ensure your human resources, compliance and/or finance department, as well as any employees who are executing agreements on behalf of the company or school, are trained and aware of sanctions restrictions and screening expectations. Schools may also want to train admissions or advancement employees to screen potential parents, donors and payors. Reviewing the OFAC sanctions list and databases is essential, especially during the onboarding, admissions, and gift acceptance processes, as well as during mergers or acquisitions. OFAC’s website offers a sanctions search compliance tool to help entities identify sanctioned individuals or businesses. The agency also has a [compliance hotline](#) to answer questions.

**2. Developing a Sanctions Compliance Program.** The Treasury Department has released [guidance](#) outlining a framework for businesses and other entities to set up a sanctions compliance program but, of course, seek legal

counsel to be sure your program is appropriately customized to your business or school. Key components of the program should include auditing, training, conducting risk assessments, and establishing internal controls. Having an effective compliance program can also help your case if OFAC discovers a violation. The agency may reduce monetary penalties or the level of the violation.

**3. Screening and Vetting.** Consider utilizing sanctions screening software to assist your company or school's background check process. Review your current contracts with background screening vendors to see if sanctions compliance is included in your service or can be added. Consider screening all **trustees**, vendors, donors, parents, prospective parents, employees, subcontractors, customers, supply chains, intermediaries, counterparties, documents, and transactions for sanctioned jurisdictions, individuals, or entities.

**4. Consulting with FP legal counsel** about how to comply with federal sanctions laws. Our team can help you craft a compliance plan and better understand your obligations under the law.

## **Conclusion**

Our team will be closely tracking enforcement actions and developments in this space. If you have any questions about how this trend may affect your business or school, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Education Team](#). Make sure you are [subscribed](#) to Fisher Phillips' Insight System to get the most up-to-date information.