

Congress of the United States

Washington, D.C. 20515

June 16, 2021

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona,

We write to express concern and request information regarding the Department of Education's (Department) administration of Section 117 of the *Higher Education Act* (HEA), which requires higher education institutions to disclose large gifts and contracts from overseas sources to the Department.

As you know, information about these financial arrangements gives both Congress and the federal government valuable insight into possible security risks and conflicts of interest posed by foreign governments' financial ties to U.S. colleges and universities. The Department's Office of General Counsel described the issue succinctly, as follows:

The disclosure mandated by Section 117, and the law's robust enforcement, are essential because hostile governments and their instrumentalities have targeted the higher education sector for exploitation to infiltrate cutting-edge American research projects, influence curricula, and gain access to systems and information available through overseas "campuses" that receive less rigorous oversight than their domestic counterparts. Additionally, they recruit top American talent through talent programs or academic exchanges.¹

Moreover, in 2018, the federal government invested \$149 billion of taxpayer funds in colleges and universities.² The American public deserves to know that their money is not being compromised by Communist China and other adversarial nations.

¹ "Institutional Compliance with Section 117 of the Higher Education Act of 1965." U.S. Department of Education, Office of General Counsel. October 2020. <https://www2.ed.gov/policy/highered/leg/institutional-compliance-section-117.pdf#page=9>.

² *Federal Investment in Higher Education*. USAspending Data Lab. <https://datalab.usaspending.gov/colleges-and-universities/#:~:text=How%20much%20was%20invested%20in,representing%203.6%25%20of%20federal%20spending>.

Examples of the threats posed by our adversaries to American universities are well documented.³ Confucius Institutes, once present at hundreds of American universities and colleges, have been used by Communist China to control curriculum, censor political debate, and oversee teacher hiring, event selection, and speaker engagements.⁴ In 2020, a Harvard University professor who received more than \$15 million in grant funding from the National Institute of Health and the Department of Defense was indicted for concealing his role as a “strategic scientist” for the Chinese government which paid him a \$50,000 monthly stipend, over \$150,000 in living expenses, and provided him \$1.5 million to establish a research lab in China.⁵ Further, a federal grand jury recently expanded charges against a Stanford University researcher alleged to be a member of China’s People’s Liberation Army.⁶ The FBI warned colleges a decade ago about how hostile actors use campuses for spying, propaganda hubs, and faculty recruitment.⁷ Unfortunately, too many institutions failed to take this warning seriously.

For decades, colleges and universities failed to comply with statutory transparency requirements. The previous administration modernized the reporting process and found over \$6.5 billion in unreported gifts and contracts and opened 19 university investigations.⁸ However, the Department has closed only four of those investigations to date. Moreover, you have not started or provided status updates on any other investigations into foreign gifts or contracts. We are concerned by these facts, considering it was conveyed to Congress that career civil servants at the Department and other agencies were supportive of Section 117 compliance and oversight.⁹

The Department must enforce the law and coordinate with other federal agencies to defend citizens from security threats. As Congress debates legislation to counter the threats posed by China and other adversarial nations, your commitment to carrying out the law is critical. The lack of progress we have seen on this issue since your confirmation as Secretary is alarming, and we are concerned the Department is not treating threats from China and other adversarial nations seriously. To assuage our concerns, please respond to these questions no later than two weeks after the date of this letter:

³ “*The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic and National Security of the United States.*” U.S. Department of Justice, Federal Bureau of Investigation. July 7, 2020. <https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states>.

⁴ “*China’s Impact on the U.S. Education System: Executive Summary.*” United States Senate Committee on Homeland Security and Government Affairs Permanent Subcommittee on Investigations. February 27, 2019. <https://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf>.

⁵ “*Harvard University Professor and Two Chinese Nationals Charged in Three Separate China Related Cases.*” U.S. Department of Justice, Office of Public Affairs. January 28, 2020. <https://www.justice.gov/opa/pr/harvard-university-professor-and-two-chinese-nationals-charged-three-separate-china-related>.

⁶ “*Federal Charges Against Stanford University Researcher Expanded.*” U.S. Department of Justice, Office of Public Affairs. February 19, 2021. <https://www.justice.gov/opa/pr/federal-charges-against-stanford-university-researcher-expanded>.

⁷ “*Higher Education and National Security: The Targeting of Sensitive, Proprietary and Classified Information on Campuses of Higher Education.*”. U.S. Department of Justice, Federal Bureau of Investigation. April 2011. <https://www.fbi.gov/file-repository/higher-education-national-security.pdf/view>.

⁸ Supra note 1; Section 117 of the Higher Education Act of 1965, Notice of Investigation and Records Requests. U.S. Department of Education. <https://www2.ed.gov/policy/highered/leg/foreign-gifts.html>.

⁹ Letter to the Honorable Rob Portman. U.S. Department of Education, Office of General Counsel. January 5, 2021. <https://www2.ed.gov/policy/highered/leg/portman-jan8-2021.pdf>

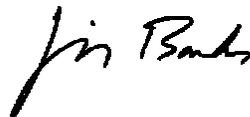
- How many full-time equivalent staff do you have analyzing section 117 of the HEA's foreign gift and contract disclosure requirements? Has this number changed in the last six months?
- Did the January 31, 2021, reporting period find any previously unreported gifts or contracts and, if so, what was the total amount?
- What was the total amount of reported foreign gifts and contracts and how many new filers were a part of the January 31, 2021, reporting period?
- Have you opened any university investigations or subpoenaed any documents related to section 117 compliance?
- How do you intend to complete the 15 open university investigations? Please provide written observations from the investigation review as was done in the October 2020, Institutional Compliance with Section 117 of the Higher Education Act of 1965, "OGC report."
- What range of corrective measures do you have to force noncompliant institutions to disclose foreign gifts and contracts?
- What interagency memberships are you working through and what agreements do you have in place to respond to potential adversarial nation security threats?

Should you have questions about this letter, please email Chance Russell (Chance.Russell@mail.house.gov), Mandy Schaumburg (Mandy.Schaumburg@mail.house.gov), and Mary Christina Riley (MaryChristina.Riley@mail.house.gov). We look forward to your timely response.

Sincerely,



Virginia Foxx
Ranking Member
U.S. House Committee on Education and Labor



Jim Banks
Chairman
Republican Study Committee