



UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

July 3, 2019

Terry Hartle  
Senior Vice President  
Government Relations and Public Affairs  
American Council on Education  
One Dupont Circle, NW  
Washington, D.C. 20036

Dear Mr. Hartle:

The Department of Education has received your letters of January 18, 2019 to Diane Jones (delegated the duties of the Under Secretary), and June 21, 2019 to Secretary DeVos. I am pleased to respond to both letters.

Section 117 of the Higher Education Act of 1965 (HEA) requires your members to report all foreign monies that flow or are funneled to them, whether directly or through their affiliates. This includes, among other things, gifts from and contracts with a foreign source totaling \$250,000 or more (“considered alone or in combination with all other gifts from or contracts with that foreign source”) in a calendar year.<sup>1</sup>

In general, institutions should submit required information using the electronic application or E-App at <https://eligcert.ed.gov/>. They should enter the information in Section K, Question 71; any restrictions or conditions pertaining to gifts or contracts can be entered in Question 69. Institutions then complete the signature page in Section L and submit the report.

If institutions identify an error regarding a contract or gift already reported, institutions should contact their School Participation Division<sup>2</sup> to have it corrected.

If an institution fails to report a contract or gift within the appropriate reporting period, an institution should report it via the E-App as soon as possible in the next reporting period.

We are pleased that you are sensitive to the security, academic freedom, and other concerns associated with foreign funding, including issues recently highlighted in a bipartisan Staff Report by the United States Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs,<sup>3</sup> and in a Texas state court case

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<sup>1</sup> 22 U.S.C. §1011f(a).

<sup>2</sup> See <https://www2.ed.gov/offices/OSFAP/services/casemanagement.html>.

<sup>3</sup> See “China’s Impact on the U.S. Education System” at 70, 75-76 (February 22, 2019) available at <https://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf>.

regarding public disclosure of foreign donors, funds, and influence on campus.<sup>4</sup> Compliance with Section 117 and related laws and orders<sup>5</sup> should continue to be a top priority for all your member institutions.

We hope you will support the Department's future efforts in this regard. These may include:

1. Exercising Section 117(f) enforcement authority.
2. Modernizing our information collection portal.
3. Issuing Section 117-related discretionary grant conditions.
4. Publishing a Title IV Program Participation Agreement Notice of Final Interpretation that Section 117 compliance is in the national security interest of the United States and otherwise consistent with the purposes of Title IV of the Higher Education Act of 1965.

Thank you for your interest and support in this matter.

Sincerely,



Mitchell M. Zais, Ph.D.

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<sup>4</sup> See *Qatar Foundation v. Paxton*, Original Plea in Intervention at Exhibit 7, Cause No. D-1-GN-006240 (Travis County, TX) (April 29, 2019).

<sup>5</sup> See, e.g., 22 U.S.C. §§611-621; 18 U.S.C. §§ 2339-2339D; Exec. Order No. 13,224, 66 Fed. Reg. 49079 (Sept. 27, 2001).