



February 11, 2021

The Honorable Philip H. Rosenfelt
Acting Secretary of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Acting Secretary Rosenfelt,

On behalf of the higher education associations listed below, I am writing to request a meeting with the Department of Education to discuss requirements for foreign gift and contract reporting under Section 117 (Sec. 117) of the Higher Education Act of 1965 (HEA) and ways to improve reporting compliance. We appreciate the need for complete and accurate reporting under Sec. 117, and take seriously the risk of illicit technology transfer and undue foreign influence. Colleges and universities are committed to working with the Department to meet these obligations, and we believe the best way to accomplish that is through a constructive collaboration between the Department and stakeholders.

Unfortunately, despite repeated pleas over the past two years, the Department has refused to engage with the higher education community regarding Sec. 117. In January 2019, we wrote the Department to address confusion and specific concerns about Sec. 117 compliance.¹ The Department never responded. Instead, it sent a letter to ACE in July 2019² indicating that institutions did not need additional guidance.

In addition, instead of engaging in remediation efforts with colleges and universities to correct insufficient or inaccurate Sec. 117 reporting, the Department launched expansive and burdensome investigations of 19 major public and private universities that far exceeded the requirements of Sec. 117 foreign gift or contract reporting. Several of the institutions investigated had diligently tried to comply with Sec. 117 for many years. Other investigations targeted institutions that contacted the Department to update and self-correct records after discovering reporting oversights, as is clearly permitted under the law. The Department's continuing punitive and non-responsive actions towards Sec. 117 compliance have resulted in many institutions being afraid to ask the Department for guidance on reporting obligations and for help correcting errors. This runs counter to the goal of enhanced transparency of foreign gift and contract reporting.

Moreover, in public communications and a recently released report on these

¹ <https://www.acenet.edu/Documents/Letter-to-Dept-of-Education-Regarding-Section-117-of-HEA.pdf>

² <https://www.acenet.edu/Documents/ED-Section-117-Letter-to-ACE.pdf>

investigations, the Department deceptively asserted that there is vast and deliberate underreporting by colleges and universities of foreign gifts and contracts that threatens our national security.³ These claims are false and inconsistent with the actions of the higher education community in addressing national security concerns and, more recently, issues of malign foreign influence. Over the past several years, higher education associations and institutions have worked to respond to concerns from the administration and Congress, as well as actively engaged with a number of national security and science agencies on these critical issues. Regrettably, the Department of Education is the only federal agency that is unwilling to address compliance concerns. This is not in the best interests of colleges and universities, the Department of Education, or the country.

We would like to meet with the appropriate staff at the Department to discuss Sec. 117 foreign gift and contract reporting requirements as soon as possible. This is especially timely as the next reporting deadline is in July, and many of our institutions continue to struggle with the latest confusing Information Collection Request (ICR) put in place by the previous administration.

Thank you for your prompt attention to this important matter.

Sincerely,



Ted Mitchell
President

On behalf of:

American Association of State Colleges and Universities
American Council on Education
American Dental Education Association
Association of American Colleges and Universities
Association of American Universities
Association of Catholic Colleges and Universities
Association of Governing Boards of Universities and Colleges
Association of Independent Colleges and Universities in Pennsylvania
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Connecticut Conference of Independent Colleges
Council for Advancement and Support of Education
Council on Governmental Relations
EDUCAUSE
Hispanic Association of Colleges and Universities

³ <https://www2.ed.gov/policy/highered/leg/institutional-compliance-section-117.pdf>

NASPA - Student Affairs Administrators in Higher Education
National Association of College and University Business Officers
National Association of College Stores
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators