

STATEMENT OF
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SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

February 28, 2019

Chairman Portman, Ranking Member Carper, and other distinguished Members of the Subcommittee.

Thank you for the opportunity to appear before you today. As a retired Army Brigadier General, whose national security background includes a tour of duty as the Pentagon's Chief of War Plans, I fully understand the importance of ensuring that our institutions of higher education maintain their academic independence free from foreign malign influence. Concerns about foreign malign influence over, or access to, our nation's colleges and universities have surfaced from time-to-time over the years in various parts of the Federal government. In response to those and other concerns, over 30 years ago Congress amended the Higher Education Act of 1965 to require institutions of higher education to disclose gifts from, and contracts with, foreign sources.

In your letter of invitation, you noted the Subcommittee's intent to examine at this hearing the Confucius Institutes and the impact the Chinese government may have on the U.S. education system and U.S. public diplomacy efforts. You also asked me to be prepared to address and answer questions about foreign gift reporting by U.S. colleges and universities. I am pleased to respond on both counts. Before addressing matters related to the Confucius Institutes and the Chinese government, I will first provide some brief context on the foreign gift and contract disclosure requirements.

Currently designated as section 117 of the Higher Education Act, this provision has remained relatively unchanged over the years. In general, this disclosure provision requires most 2-year and 4-year institutions of higher education to disclose gifts from, or contracts with, a foreign source in the amount of \$250,000 or more in one year. In addition to gift and contract reporting, section 117 also requires any institution owned or controlled by a foreign source to disclose certain information relating to its ownership or control. An institution's disclosure report must be filed with the Secretary of Education on January 31 or July 31 of each year. Three general categories of information are included in a report: (1) gifts received from or contracts entered into with a foreign source, other than a foreign government; (2) gifts received from or contracts entered into with a foreign government; and (3) ownership or control of an institution of higher education by a foreign source.

Gifts Received From, or Contracts Entered Into With, a Foreign Source (Other Than a Foreign Government). As stated, the report must include information about gifts received from and contracts entered into with a foreign source, other than a foreign government, totaling \$250,000 or more in one year. Specifically, the institution must report the name of the country to which the gifts and contracts are attributable, and the aggregate dollar amount. Gifts and contracts are attributable to the country of citizenship of the foreign source, the principal residence of the foreign source, or the country of incorporation. If the country of incorporation is unknown, the principal place of business must be reported. Although the name of the foreign source -- for example, an individual or company -- is not required, some institutions do provide that information. When available, the Department includes that information in a public report that I will discuss shortly.

Gifts Received From, or Contracts Entered Into With, a Foreign Government. For gifts received from, or contracts entered into with a foreign government totaling \$250,000 or more in one year, the institution's report must include the identity of the foreign country and the aggregate amount of these gifts and contracts.

Ownership or Control of an Institution of Higher Education by a Foreign Source. In addition to reporting on gifts and contracts from a foreign source other than a foreign

government, and from a foreign government, any institution of higher education that is owned or controlled by a foreign source must report the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

Over the 30-plus years that the disclosure requirements have been in place, the Department has not issued any regulations under this provision of the statute. Instead, the Department has issued guidance to schools on their reporting responsibilities -- specifically Dear Colleague Letters issued in February 1995¹ and October 2004.²

Those letters reminded institutions of their obligations to report gifts from, and contracts with, foreign sources, and provided instructions for submitting those reports to the Department. These requirements are also included in the Federal Student Aid Handbook, a comprehensive resource for institutions administering the student financial assistance programs.

All degree-granting domestic institutions of higher education are covered under section 117. There are approximately 3,700 such eligible institutions in the United States but, based on recent reports the Department has received, fewer than three percent (3%) reported receiving foreign gifts or contracts.

There are limitations to the reports we receive under section 117 given those data are self-reported by colleges and universities. A number of colleges and universities have affiliated non-profit foundations or other entities, such as research, endowment, or alumni foundations that serve as another means for delivering gifts and contracts to colleges and universities. It is unclear whether institutions of higher education report foreign gifts and contracts routed through these affiliated foundations, given section 117 does not reference foundations or other affiliated entities.

¹ See Dear Colleague Letter ([GEN-95-12](#)) of February 1, 1995.

² See Dear Colleague Letter ([GEN-04-11](#)) of October 4, 2004.

To collect the required information, the Department uses the same electronic system that institutions use to apply to participate in federal student aid. The system reminds and prompts institutions to provide the required information. If institutions are subject to similar reporting requirements from state governments or other federal agencies, the institution may submit that report to the Department instead, although none have done so in recent years.

Since 2012, the Department has posted a report under section 117 of all foreign gifts and contracts entered into the system and made that report available since then on the Federal Student Aid Data Center website.³ Generally, the information is updated twice a year, in April and November.

During the recent 2017-2018 school year, 91 institutions reported receiving over \$1.3 billion in gifts and contracts from foreign governmental and non-governmental sources in 105 countries.⁴ Among these 105 countries, China⁵ ranked first in terms of the total amount of gifts and contracts reported by institutions under section 117. For the 2017-2018 school year, institutions reported receiving from China⁶ a total of about \$222 million, or 17% of the \$1.3 billion, in governmental and nongovernmental gifts and contracts.

With respect to the impact of the Chinese government on the higher education system, we recognize that the influence of the government of China is a concern. Of additional concern are Confucius Institutes. As you know, Confucius Institutes are partnerships between the Chinese government and U.S. colleges and universities. The Department is aware that a number of institutions of higher education have, for various reasons, terminated their agreements with the Confucius Institutes. We encourage institutions of higher education to continue to thoroughly assess the potential impact of gifts, contracts, or other arrangements with any foreign source.

³ <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

⁴ Some institutions of higher education included the United Nations (UN) as a source of gifts and contracts; the UN has been included within the “105 countries.”

⁵ For ease of reference, the amount of the gifts and contracts from Hong Kong are consolidated with those from China.

⁶ *Id.*

On a separate but related note, the Department of Education continues to confer with the U.S. Department of Defense, which is designated as the lead agency under section 1286 of the National Defense Authorization Act for Fiscal Year 2019, to support the protection of U.S. intellectual property. This section authorizes the Secretary of Defense to “[consult] . . . with other appropriate government organizations, [to] establish an initiative to work with academic institutions who perform defense research and engineering activities . . . to support [the] protection of intellectual property, controlled information, key personnel, . . . information about critical technologies relevant to national security . . . [and] to limit undue influence, including through foreign talent programs.”

We fully understand and share your concern about the need to keep foreign interests from compromising the academic integrity of American colleges and universities while still respecting the importance of institutional autonomy and academic freedom.

As your Subcommittee and Congress review the issues presented by the Confucius Institutes, the Chinese government, and foreign gifts to and contracts with institutions of higher education, the Department stands ready to work with you.

Thank you for the opportunity to testify today. I look forward to answering your questions.