

116TH CONGRESS
2D SESSION

H. R. 7842

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2020

Mr. MURPHY of North Carolina introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intelligence on Nefar-
5 ious Foreign Leaders Using Education Networks for Cor-
6 rupt Enrichment Act” or the “INFLUENCE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) Schools in the United States, especially in-
10 stitutions of higher education overseeing either sen-

1 sensitive research or critical military technology sys-
2 tems, have provided a level of access to the Chinese
3 government that the Chinese government has re-
4 fused to provide to the United States.

5 (2) China’s control over the flow of information
6 means the American people have an incomplete pic-
7 ture of Chinese government actions and policies that
8 run counter to the interest of the United States at
9 home and abroad.

10 (3) In the last 15 years, the Chinese govern-
11 ment has opened over 100 Confucius Institutes on
12 college and university campuses in the United States
13 to increase their cultural standing in popular cul-
14 ture. While there are currently more than 500 Con-
15 fucius Institutes worldwide, the United States has
16 more Confucius Institutes than any other country.

17 (4) Federal Government officials have expressed
18 concerns about Confucius Institutes. Christopher
19 Wray, Director of the Federal Bureau of Investiga-
20 tion, testified that the FBI is “watching warily”
21 Confucius Institutes and “in certain instances have
22 developed appropriate investigative steps”.

23 (5) The Department of Education has not con-
24 ducted regular oversight of the compliance of institu-
25 tions of higher education with foreign gift reporting

1 requirements and, until recently, has failed to ade-
2 quately enforce the requirements of section 117 of
3 the Higher Education Act of 1965 (relating to dis-
4 closures of foreign gifts). The Department of Edu-
5 cation maintains a database detailing the reporting
6 of foreign gifts received by institutions, but relies
7 solely on the institutions to self-report gifts.

8 (6) The Department of Education is updating
9 the reporting requirements applicable to institutions
10 of higher education. Previously, the Department of
11 Education had not issued guidance on foreign gift
12 reporting by institutions of higher education since
13 2004. As a result, institution's informed Congress
14 that the reporting requirements were unclear and
15 confusing. Institutions also informed Congress that
16 the Department of Education website used to report
17 foreign gifts was dated and difficult to use.

18 (7) Absent full transparency regarding how
19 Confucius Institutes operate and full reciprocity for
20 the cultural outreach efforts of the United States on
21 college campuses in China, Confucius Institutes
22 should not continue in the United States unchecked
23 or unsupervised.

1 **SEC. 3. ENHANCED DISCLOSURE OF CERTAIN FOREIGN**
2 **GIFTS AND CONTRACTS.**

3 Section 117 of the Higher Education Act of 1965 (20
4 U.S.C. 1011f) is amended—

5 (1) by amending subsection (a) to read as fol-
6 lows:

7 “(a) **DISCLOSURE REPORT.**—An institution shall file
8 a disclosure report with the Secretary on January 31 or
9 July 31, whichever is sooner, whenever one or more of the
10 following occurs:

11 “(1) The institution is owned or controlled by
12 a foreign source.

13 “(2) The institution receives a gift from or en-
14 ters into a contract with a foreign source determined
15 by the Secretary to be acting directly or indirectly
16 on behalf of a foreign government that is adversarial
17 to the United States, regardless of the value of the
18 gift or contract.

19 “(3) The institution receives a gift from or en-
20 ters into a contract with a foreign source not de-
21 scribed in paragraph (2), the value of which is—

22 “(A) \$50,000 considered alone; or

23 “(B) \$100,000 or more in combination
24 with all other gifts from or contracts with that
25 foreign source within a calendar year.”;

1 (2) by amending subsection (e) to read as fol-
2 lows:

3 “(e) PUBLIC AVAILABILITY OF INFORMATION.—

4 “(1) PUBLIC INSPECTION.—Subject to para-
5 graph (4), all disclosure reports required by this sec-
6 tion shall be public records open to inspection and
7 copying during business hours.

8 “(2) PUBLICATION BY DEPARTMENT OF EDU-
9 CATION.—Not later than 180 days after the date of
10 enactment of the INFLUENCE Act, and on an an-
11 nual basis thereafter, the Secretary of Education
12 shall make available, on a publicly accessible website
13 of the Department of Education, a database of the
14 information disclosed to the Secretary under this
15 section during the preceding year.

16 “(3) PUBLICATION BY INSTITUTIONS.—Not
17 later than 180 days after the date of enactment of
18 the INFLUENCE Act, and on an annual basis
19 thereafter, each institution that receives a gift or en-
20 ters into a contract described in subsection (a) shall
21 make available, on a publicly accessible website of
22 the institution—

23 “(A) in the case of a gift described in such
24 subsection, a detailed explanation of the gift,
25 including the amount of the gift, identification

1 of the source of the gift, and any conditions or
2 restrictions on the gift; and

3 “(B) in the case of a contract described in
4 such subsection, a complete and accurate copy
5 of the contract.

6 “(4) RESTRICTION ON PUBLICATION OF SEN-
7 SITIVE INFORMATION.—

8 “(A) IN GENERAL.—Information made
9 publicly available under this section shall not
10 include information that is determined by an in-
11 stitution to be confidential, proprietary, or oth-
12 erwise prohibited from disclosure by law.

13 “(B) ENFORCEMENT AUTHORITY.—If the
14 Secretary determines that an institution of
15 higher education willfully or negligently dis-
16 closed information that is confidential, propri-
17 etary, or otherwise prohibited from disclosure
18 by law in violation of subparagraph (A), the
19 Secretary may declare such institution ineligible
20 to participate in programs authorized under
21 title IV of this Act.”; and

22 (3) in subsection (f)(2), by inserting before the
23 period at the end the following: “, in addition to any
24 other amounts as determined appropriate by the
25 Secretary of Education”.

1 **SEC. 4. FOREIGN INVOLVEMENT IN SENSITIVE PROJECTS.**

2 The Higher Education Act of 1965 (20 U.S.C. 1001
3 et seq.) is further amended by inserting after section 117
4 the following:

5 **“SEC. 117a. REQUIREMENTS FOR CERTAIN FOREIGN CON-**
6 **TRACTS.**

7 “(a) FOREIGN INVOLVEMENT IN SENSITIVE
8 PROJECTS.—

9 “(1) IN GENERAL.—In a case in which an insti-
10 tution enters into a contract with a foreign indi-
11 vidual under which the individual will participate in
12 a sensitive project—

13 “(A) the institution shall disclose to the
14 Secretary—

15 “(i) the date on which individual is
16 expected to return to their home country;
17 and

18 “(ii) and the name of the country to
19 which the individual is expected to return;
20 and

21 “(B) such contract shall provide—

22 “(i) that the individual may not dis-
23 close information derived from such project
24 to a foreign government or any other for-
25 eign entity; and

1 “(ii) that the penalties for disclosure
2 of such information shall be the cancella-
3 tion of the contract and a requirement to
4 reimburse the Federal Government as de-
5 scribed in paragraph (2).

6 “(2) LIABILITY FOR DISCLOSURE.—A foreign
7 individual who knowingly or willfully discloses infor-
8 mation in violation of a contract under paragraph
9 (1) shall be required to reimburse the Federal Gov-
10 ernment for the full costs of any investigation or ad-
11 ministrative action resulting from such violation, in
12 addition to any other amounts as determined appro-
13 priate by the Secretary.

14 “(b) CHINA-AFFILIATED CULTURAL OR LANGUAGE
15 PROGRAM.—In a case in which an institution enters into
16 a contract with an individual or entity under which a
17 China-affiliated cultural or language program will be al-
18 lowed to operate at the institution, such contract—

19 “(1) shall include a provision protecting aca-
20 demic freedom at the institution; and

21 “(2) shall not include any provision that would
22 limit the rights of an individual under the Constitu-
23 tion of the United States.

24 “(c) DEFINITIONS.—In this section:

1 “(1) The term ‘China-affiliated cultural or lan-
2 guage program’ means any project, program, or
3 other activity that—

4 “(A) seeks to familiarize students with
5 Chinese language or culture; and

6 “(B) is directly or indirectly funded by the
7 Government of the People’s Republic of China.

8 “(2) The term ‘sensitive project’ means any
9 project, program, or other activity carried out by an
10 institution—

11 “(A) that is funded, in whole or in part, by
12 Federal funds; and

13 “(B) for which a security clearance is re-
14 quired as a condition of participation.”.

15 **SEC. 5. INTERAGENCY COORDINATION ON ENFORCEMENT**
16 **OF FOREIGN GIFT AND CONTRACT REQUIRE-**
17 **MENTS.**

18 The Higher Education Act of 1965 (20 U.S.C. 1001
19 et seq.) is further amended by inserting after section 117a
20 (as added by section 4) the following:

21 **“SEC. 117b. INTERAGENCY COORDINATION ON ENFORCE-**
22 **MENT OF FOREIGN GIFT AND CONTRACT RE-**
23 **QUIREMENTS.**

24 “(a) NOTIFICATION OF VIOLATIONS.—The Secretary
25 of Education shall establish a process to notify appro-

1 p r i a t e F e d e r a l a g e n c i e s o f a n y v i o l a t i o n o f s e c t i o n 1 1 7 o r
2 s e c t i o n 1 1 7 a .

3 “(b) C O N S I D E R A T I O N O F E N F O R C E M E N T A C T I O N . —
4 A f t e r r e c e i v i n g n o t i c e o f a v i o l a t i o n u n d e r s u b s e c t i o n (a) ,
5 t h e h e a d o f t h e F e d e r a l a g e n c y t h a t r e c e i v e d s u c h n o t i c e
6 s h a l l d e t e r m i n e —

7 “(1) w h e t h e r s u c h v i o l a t i o n c o n s t i t u t e s a v i o l a -
8 t i o n o f a p r o v i s i o n o f l a w o v e r w h i c h t h e a g e n c y h a s
9 e n f o r c e m e n t a u t h o r i t y ; a n d

10 “(2) i f s u c h a v i o l a t i o n o c c u r r e d , w h e t h e r t o
11 p u r s u e a n e n f o r c e m e n t a c t i o n a g a i n s t t h e i n d i v i d u a l
12 o r e n t i t y r e s p o n s i b l e f o r t h e v i o l a t i o n . ” .

13 **SEC. 6. REPORTS.**

14 S e c t i o n 6 3 6 o f t h e H i g h e r E d u c a t i o n A c t o f 1 9 6 5 (2 0
15 U . S . C . 1 1 3 2 - 5) i s a m e n d e d t o r e a d a s f o l l o w s :

16 **“SEC. 636. REPORT ON FOREIGN AND NATIONAL SECURITY**
17 **ISSUES AFFECTING INSTITUTIONS OF HIGH-**
18 **ER EDUCATION.**

19 “(a) R E P O R T R E Q U I R E D . — O n a n a n n u a l b a s i s , t h e
20 S e c r e t a r y o f E d u c a t i o n , i n c o n s u l t a t i o n a n d c o l l a b o r a t i o n
21 w i t h t h e S e c r e t a r y o f S t a t e , t h e S e c r e t a r y o f D e f e n s e , t h e
22 D i r e c t o r o f N a t i o n a l I n t e l l i g e n c e , t h e A t t o r n e y G e n e r a l ,
23 a n d t h e h e a d s o f o t h e r r e l e v a n t F e d e r a l a g e n c i e s , s h a l l
24 s u b m i t t o t h e a u t h o r i z i n g c o m m i t t e e s a r e p o r t o n f o r e i g n

1 and national security issues affecting institutions of higher
2 education.

3 “(b) ELEMENTS.—Each report under subsection (a)
4 shall include—

5 “(1) identification of areas of national need in
6 foreign language, area, and international studies as
7 such studies relate to government, education, busi-
8 ness, and nonprofit needs and a plan to address
9 those needs;

10 “(2) a description of any risks associated with
11 allowing foreign students and other foreign individ-
12 uals at institutions of higher education to access
13 classified information, protected intellectual prop-
14 erty, research and development information, and
15 military technology critical to the national security
16 of the United States;

17 “(3) best practices that may be implemented by
18 the Department of Education, the Department of
19 Defense, and other Federal agencies with respon-
20 sibilities relating to national security to strengthen
21 the secrecy of grants, projects, and contracts that
22 involve providing foreign individuals at institutions
23 of higher education with access to classified or sen-
24 sitive information, including recommended enforce-

1 ment actions to respond to the misuse of such infor-
2 mation;

3 “(4) a description of the ongoing efforts of Fed-
4 eral law enforcement organizations, including the
5 Federal Bureau of Investigation, to address the theft
6 of sensitive information by adversarial foreign ac-
7 tors; and

8 “(5) a summary of any information from na-
9 tional security-related projects at institutions of
10 higher education that was stolen, misused, or wrong-
11 fully disclosed during the period covered by the re-
12 port and any actions taken to remedy the theft, mis-
13 use, or disclosure of such information.

14 “(c) FORM OF REPORT.—Each report under sub-
15 section (a) shall be submitted in unclassified form, but
16 may include a classified annex.

17 “(d) PUBLIC AVAILABILITY.—The Secretary of Edu-
18 cation shall make each report under subsection (a) avail-
19 able on a publicly accessible website of the Department
20 of Education, except no report published on such website
21 shall contain classified information.”.

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