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S. Hrg. 116–30

# CHINA'S IMPACT ON THE U.S. EDUCATION SYSTEM

## HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

FEBRUARY 28, 2019

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Printed for the use of the
Committee on Homeland Security and Governmental Affairs

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# CHINA'S IMPACT ON THE U.S. EDUCATION SYSTEM

**THURSDAY, FEBRUARY 28, 2019**

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:07 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Rob Portman, Chairman of the Subcommittee, presiding.

Present: Senators Portman, Romney, Hawley, Carper, Hassan, and Peters.

## OPENING STATEMENT OF SENATOR PORTMAN[1]

Senator PORTMAN. The Permanent Subcommittee on Investigations will come to order. Welcome, Senator Carper.

Senator CARPER. Thank you, Mr. Chairman. Hi, witnesses. Welcome.

Senator PORTMAN. Last night, Senator Carper and I issued a report[2] detailing concerns about China's impact on the U.S. education system. The report is the result of an 8-month investigation that details our concerns focused on the China Confucius Institutes.

Based on our findings, we are here to focus on a couple of issues: transparency and reciprocity.

Transparency in how American colleges, universities, and K–12 institutions manage Confucius Institutes, which are controlled, funded, and mostly staffed by the Chinese Government and aim to promote Chinese language, culture, and interests on U.S. campuses.

Lack of reciprocity in how China does not permit U.S. State Department programming in China, we will hear more about that today. Our report details how China—known for its one-sided dealings in trade sometimes—uses similar tactics in its unfair treatment of U.S. schools and the State Department and their efforts in China.

Let me be clear. I support cultural exchange. I support cultural exchanges with China and other international exchanges more broadly. I am for engagement, but there must be reciprocity and there must be appropriate engagement, without the Chinese Gov-

[1] The prepared statement of Senator Portman appears in the Appendix on page 37.
[2] The report referenced by Senator Portman appears in the Appendix on page 80.

ernment determining what is said and done on U.S. campuses. The law must be followed. This is why transparency is so important.

U.S. officials have expressed concerns about China's influence through its Confucius Institutes. Recently, the Federal Bureau of Investigations (FBI) Assistant Director for Counterintelligence testified before the Senate Judiciary Committee that Confucius Institutes are, and I quote, "not strictly a cultural institute" and "that they are ultimately beholden to the Chinese Government."

The State Department has labeled Confucius Institutes "China's most prominent soft power platform."

Higher education groups have also expressed concern. The American Council of Education, the National Association of Scholars, and the American Association of University Professors have all recommended that U.S. schools fundamentally change how they manage Confucius Institutes—or consider discontinuing them altogether.

We know that Confucius Institutes exist as just one part of China's broader, long-term strategy, but China has invested significantly in them, giving more than $158 million to U.S. schools since 2006. That is over 12 years, not 1 year, incidentally, as I said yesterday.

China has also opened more than 500 Confucius Classrooms at U.S. K–12 schools. Expanding the Confucius Classroom program is a priority for them. A document obtained by the Subcommittee details a plan to expand Confucius Classrooms by seeking, and I quote, "top-down policy support from the State government, legislative and educational institutions, with a particular emphasis on access to the support from school district superintendents and principals."

Over the last 8 months, we interviewed U.S. school officials, teachers, and Confucius Institute instructors. We also reviewed tens of thousands of pages of contracts, emails, financial records, and other internal documents obtained from more than 100 U.S. schools with either active or closed Confucius Institutes.

Since our investigation started, more than 10 U.S. schools announced they would be discontinuing their Confucius Institutes.

We found that Chinese funding for Confucius Institutes comes with strings attached—strings that can compromise academic freedom.

The Chinese Government vets and approves all Chinese directors and teachers, events, research proposals, and speakers at U.S. Confucius Institutes.

Chinese teachers at U.S. Confucius Institutes sign contracts with the Chinese Government pledging that they will follow Chinese law and "conscientiously safeguard China's national interests."

Some schools contractually agree that both Chinese and U.S. laws will apply at the Confucius Institutes on U.S. school campuses. Think about that for a second. These are American universities agreeing to comply with Chinese law on their own campuses.

This application of Chinese law at U.S. schools results in exporting China's censorship of political debate and prevents discussion of some politically sensitive topics.

As such, numerous U.S. school officials told the Subcommittee that Confucius Institutes were not the place to discuss topics like the independence of Taiwan or the Tiananmen Square massacre.

Simply put, as one U.S. school administrator told us: "You know what you are getting when something is funded by the Chinese Government."

Investigators from the Government Accountability Office (GAO) also spoke with U.S. school officials, who acknowledged that hosting a Confucius Institute could limit events or activities critical of China, and not just at the Confucius Institute but also elsewhere on campus. We will hear from Mr. Bair about that today.

In response to the growing popularity of Confucius Institutes, the U.S. State Department initiated its own public diplomacy program in China. The Chinese Government effectively shut it down.

Since 2010, the State Department has provided $5.1 million in grant funding for 29 "American Cultural Centers (ACCs)"—in China. Through the program, a U.S. school would partner with a Chinese school to set up a cultural center, which would enable Chinese students to better understand U.S. culture.

The Chinese Government stifled the program from the start.

Seven of the 29 ACCs never even opened.

The ACCs that did open found they needed permission from their Chinese partner schools—sometimes including local Chinese Communist Party officials—to even hold events.

Eventually, the State Department stopped funding the program altogether. Again, we will hear about that program today.

While the State Department is mostly known for its overseas diplomacy efforts, it also has oversight responsibilities right here in the United States.

The State Department conducts Field Site Reviews to ensure that foreign nationals who come to the United States on Exchange Visitor Program visas are here for their stated reason.

While there are roughly 100 Confucius Institutes, again, at colleges and universities in the United States, the State Department has conducted Field Site Reviews at only two. The State Department found serious problems at both of those schools.

The State Department revoked more than 30 visas for Chinese exchange visitors at Confucius Institutes who were only supposed to be working at the university that sponsored their visa, but were actually teaching in Confucius Classrooms at local K–12 schools.

The State Department discovered evidence of "fraudulent paperwork and coaching" that was a "deliberate attempt to deceive" investigators.

Moreover, the State Department told us that it does not collect visa information specifically related to Confucius Institutes, so we do not know how many Confucius Institute teachers there are or where they are.

Our investigation also identified failures at the Department of Education that have contributed to a lack of transparency and oversight of schools that take money from foreign governments.

Under law, if a U.S. school receives more than $250,000 from a single foreign source in 1 year, it is required to report that data to the Department of Education, which in turn publishes it.

Our investigation found that nearly 70 percent of the schools that should have reported receiving funds for a Confucius Institute from China did not.

When a school fails to report a foreign gift, the Department of Justice (DOJ) can force a school to comply, but only at the request of the Secretary of Education. The Department of Education has never referred these types of cases to the Department of Justice. Not once.

The Department of Education has not issued any guidance since October 2004—over 14 years ago—the same year that China opened its first Confucius Institute. It is time for new guidance.

Our investigation found that schools in the United States, from kindergarten to college, have provided a level of access to the Chinese Government that the Chinese Government refuses to provide to the United States.

This brings us back to our two key points: transparency and reciprocity.

Absent full transparency regarding how Confucius Institutes operate and full reciprocity for U.S. cultural outreach efforts on Chinese campuses, Confucius Institutes should not continue in the United States, in my view.

With that, I turn to Senator Carper for his opening statement.

**OPENING STATEMENT OF SENATOR CARPER[1]**

Senator CARPER. Thanks Mr. Chairman. I want to thank you for your attention to this issue. I want to thank our staffs, both the minority side and the majority side, for the bipartisan work that went into this hearing.

I am going to go off script just for a minute, if I could, and put this hearing into context. Earlier in my life I was a naval flight officer, served three tours in Southeast Asia. There are the names of 50,000 men, some women, on a big wall, a granite wall just near the Lincoln Memorial that I run by every now and then. When I run by it, I brush my hand, my fingers across the names of the people I served with.

I had the privilege in 1991 of leading a congressional delegation to Vietnam, Cambodia, and Laos to find out what happened to thousands of the missing in action (MIAs) and to try to see if there might be a way to get onto a road map to normalized relations between the United States and the Vietnamese at the behest of President George Herbert Walker Bush's administration. We had an incredible codel and had a very emotional meeting with the brand-new leader of Vietnam, and put us on the road map to normalize relations. Our colleagues John Kerry and John McCain worked it hard in the Senate; our delegation worked it hard in the House. One of the members of my delegation actually became our first U.S. Ambassador to Vietnam, a united Vietnam, in decades.

When it was all over, fast forward, almost 3 years ago this April, President Obama invited John Kerry, John McCain, and myself to go back with him to Vietnam to reaffirm our improving relations, and to expand our trade relations with them, including our defense and military cooperation with Vietnam, the country that killed

[1] The prepared statement of Senator Carper appears in the Appendix on page 42.

50,000 of our men and women and as attested to by this wall I run alongside every now and then.

One of the things we learned from my visit there was that the U.S. Ambassador, this was 3 years ago. He said, "I have two popular opinion polls that were taken of the Vietnamese people." Three years ago. He said, "One of them, taken by a group other than the United States, found that 95 percent of the Vietnamese have a positive opinion toward the United States." Higher than any other nation, 95 percent.

We commissioned our own survey and found that 90 percent of the Vietnamese people had a positive opinion of us. I describe it as they like us more than we like us. Think about that.

The reason why I say that, I do not know if my colleagues went to Munich during our last recess, but about 15 of our colleagues went to Munich for a big security meeting to kind of reaffirm our allegiance to our European allies and the North Atlantic Treaty Organization (NATO). An important meeting. But it was hosted in Munich. In World War II, we lost hundreds of thousands of troops because of that country and their leaders. Today they are one of our best allies. The same situation with Japan.

I think it is important to remember that the folks who might be a dreaded enemy at one point in time in our history can turn around and be our best friends and our best allies. It is important that we try to make sure that our relationship with China turns out good for them and good for us. I think the point that our Chairman makes is reciprocity. For me that is maybe the most important element to take away from this hearing. The idea that they are trying to share with us their culture, their language, I think that is great. It is a huge country. But with the idea they should be reciprocating and welcome our opportunities to do the same thing.

Now I am back on script. Ready? This will only take about an hour—no, it will not.

Anyhow, the words that I know in Mandarin, I know "ni hao." I know "xie xie," "thank you." I know how to say "Happy New Year": "Xin nian kuai le." That is pretty much it. If I were just speaking in Chinese, it would be a short statement. Unfortunately for you, it is not that short.

More than 2 years ago now, the Russian Government launched an unprecedented attack on our country. Using disinformation and stolen emails, they took advantage of Americans' growing use of social media in an attempt to stir up conflict and influence the 2016 election by boosting the campaign of one candidate while denigrating the campaign and the candidacy of another.

Today reports are already emerging that disinformation campaigns, targeting a number of the Democrats seeking to run against President Trump, have already begun. Given what our country has been through in recent years and what we are preparing to grapple with in 2020, it is important that we be vigilant in combating foreign efforts to influence American public opinion regardless of where they originate.

Today we will be examining the quiet efforts by the Chinese Government to improve its image in Americans' minds through its Confucius Institutes.

China opened its first Confucius Institute outside of Asia in the United States about 15 years ago, and it did it at the University of Maryland. The Chinese have this fixation with Terrapins, so they picked Maryland, I am told, for that reason. It has since opened roughly 100 of its 500 institutes throughout the country. In this country there are about 100 of them.

In addition, half of the 1,000 Confucius Classrooms that it runs through its Confucius Institutes are in our primary and our secondary schools.

Activities at the individual Confucius Institutes that our staffs visited and examined varied quite a bit. At one school, the Chinese visitors at the Confucius Institute perform research and work as teaching assistants in for-credit Mandarin classes, which we could probably all benefit from.

At other schools, the Chinese visitors taught more informal, noncredit classes to both college students and members of the community. These classes focused on everything from Mandarin for business travelers to topics like Chinese cooking, which we enjoy, and Chinese art, which a lot of us enjoy.

In a handful of schools, Confucius Institute staff focused almost exclusively on placing visiting language teachers in K–12 schools in the area.

At all of the schools, Confucius Institute staff seemed to focus a significant amount of time on events like Chinese New Year parties, and I have been to a few of those, and they are fun.

As best we can determine, these institutes spread around our country do not appear to be overt efforts by the Chinese Communist Party to spread pro-China or anti-American propaganda. There is also no evidence we have uncovered that suggests that they are a center for some kind of Chinese espionage efforts or any other illegal activities.

That said, we nonetheless need to be mindful of where the story told by these Confucius Institutes is coming from.

FBI Director Wray and others have expressed concerns about the presence of Confucius Institutes in our schools because they were conceived by and are funded by a Chinese Government that has a much different world view than ours.

The $158 million that China has spent on Confucius Institutes in the United States come from a government that routinely stifles free speech, stifles debate, and stifles dissent in its own country.

It is a government that monitors and jails religious and ethnic minorities and has a violent history of oppression.

It is also a government that routinely targets us through hacking and industrial espionage and threatens Taiwan and our other close allies in Asia militarily. I would add it is a country that basically has tried to blockade, keep other ships, including U.S. naval vessels, out of the South China Sea and places where I used to operate, flying many missions during the Vietnam War on surface surveillance of that part of the world.

Participants at Confucius Institute-sponsored activities will not get the full story on these issues, and that is because, under the contracts that U.S. schools have signed with the Chinese Government, Chinese officials can veto programming they do not like. The staff sent from China to run the institutes are prohibited under

their individual contracts from doing anything "detrimental to national interests."

Despite my concern about the Confucius Institutes and China's goals for them, I welcome, as I may have implied earlier, greater opportunities for Americans to learn more about China, visit the country, and speak Mandarin. I want Chinese citizens to visit here and learn more about us and our language and culture as well.

When I was there not long ago—I think it was an Aspen Institute visit—one of the things I said to a group of Chinese that we met with, "There is more that unites us than divides us, and let us try to figure out how we can focus more on the former, maybe less on the latter."

Data reported by the Department of Education indicate that as many as 400 million people in China are attempting to learn English. According to a 2018 Pew Research study, more than 90 percent of European primary and secondary school students are learning a foreign language. At the same time—get this—only 20 percent of American students are working to learn another language. Not good.

We need to do better than that. At a time when the world is getting smaller, when our country is growing more diverse, and when so many American jobs are reliant on global trade, it is in our Nation's best interest for more Americans to learn foreign languages, and that includes Mandarin.

To the extent that there is unmet demand in our country for Chinese language education, we should be filling it rather than allowing the Chinese Government to fill it.

The report we have released recommends a number of steps that schools with Confucius Institutes can take to change their relationship with the Chinese Government and assert the supremacy of free speech, free debate, and academic freedom on their campuses.

In closing, we also make recommendations to the U.S. Departments of Education and State to ensure that Confucius Institutes are operating within the law. We call on the Chinese to stop blocking our efforts in cultural outreach in their country.

As I stated earlier, it is crucial that we continue to be vigilant in combating foreign efforts to influence public opinion in our country. But if we take any other lessons away from today's hearing, I hope it is that, in order to preserve our economic competitiveness and protect our national security, we need to make certain that our students are learning about other cultures and studying Mandarin and other key languages, too.

With that, I will just say again "ni hao" and "xie xie." Welcome. Thank you.

Thank you, Mr. Chairman. I am sorry that I took so long. I was with Max Baucus. Max Baucus was on an elevator here yesterday in the Capitol, our immediate past Ambassador, former colleague here, Senator from Montana. One of the things I mentioned to him briefly was our hearing today, and he said he would be interested in following up with us, and he could probably give us some good insights. We look forward to those.

Thank you so much.

Senator PORTMAN. Thank you, Senator Carper, and thank you, my friend, for partnering on this report, as always, and to your staff.

As you probably have noticed, there is not a lot of bipartisanship here on Capitol Hill. We keep this Committee as nonpartisan as possible, and as a result, we have done some pretty good work that has resulted in some important legislation, as we did today.

I would like to now introduce our panel of witnesses for the hearing.

Jason Bair is the Acting Director of International Affairs and Trade at the U.S. Government Accountability Office.

Walter Douglas is the Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs at the State Department.

Jennifer Galt is the Principal Deputy Assistant Secretary for the Bureau of Cultural and Educational Affairs at the State Department.

And Mick Zais is the Deputy Secretary at the U.S. Department of Education.

It is the custom of this Subcommittee to swear in witnesses, so at this time I would ask you all to please stand and raise your right hand. Do you swear that the testimony you are about to give before this Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. BAIR. I do.

Mr. DOUGLAS. I do.

Ms. GALT. I do.

Mr. ZAIS. I do.

Senator PORTMAN. Thank you. Please be seated.

Let the record reflect the witnesses all answered in the affirmative. Your written testimony, ladies and gentlemen, will all be considered to be part of the record, so you do not need to give your entire statement. We would ask that you try to limit your oral testimony to 5 minutes so we will have a chance for a real dialogue after your oral testimony.

Mr. Bair, why don't we start with you?

## TESTIMONY OF JASON BAIR,[1] ACTING DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. BAIR. Chairman Portman, Ranking Member Carper, and Members of the Subcommittee, I am pleased to be here today to discuss GAO's work on Chinese involvement in U.S. higher education.

My testimony summarizes two GAO reports: one issued yesterday on Confucius Institutes, and one issued in August 2016 on U.S. universities operating in China. I will start by discussing our observations on the 96 Confucius Institutes operating on U.S. college campuses.

My overall message is that Confucius Institute agreements vary in some key areas, and stakeholders have identified opportunities to improve those agreements.

[1] The prepared statement of Mr. Bair appears in the Appendix on page 49.

In examining the agreements between U.S. universities and Hanban, an affiliate of the Chinese Ministry of Education, we found that there are a variety of issues that can be addressed.

Regarding the applicability of school policies, we found that about one-third contained language that applied U.S. school policies to the operation of the Confucius Institutes.

Regarding the public availability of the agreements, we found that only approximately half contained language that made the agreement confidential or limited the ability of either party to release the agreement.

Regarding funding, we found that Hanban generally provides startup funds, annual funds, teachers and their salaries, and teaching materials, while U.S. schools generally provide in-kind support such as campus space and staff to help manage the Confucius Institute.

Regarding teachers, we found that Confucius Institute teachers from China taught a mix of both credit-bearing and non-credit courses at different schools. However, none of our 10 case study schools used the materials provided by Hanban in their credit-bearing classes.

We also gathered suggestions for improving the Confucius Institutes from school officials, researchers, and others. They suggested improvements in two main areas.

First, they suggested improving the language of the agreements. Specifically, several people suggested removing the confidentiality language from the agreements and making them available online in order to dispel any questions or concerns about what they contained.

In addition, some school officials, researchers, and others suggested that agreements should include even stronger language, making it clearer that the U.S. school has ultimate decisionmaking authority when it came to operating the Confucius Institute.

Second, they suggested improvements in the operation of the institutes. For example, some school officials suggested to us that Confucius Institute teachers should not teach credit-bearing course on campuses, even if they were using the curriculum that had been developed by the U.S. school.

In addition, some officials suggested that Confucius Institutes should choose to organize events on topics that are sensitive to China in order to demonstrate that neither the school nor the institute is subject to undue Chinese influence.

Moving now to our 2016 report on U.S. universities operating in China, my key message is that U.S. universities do emphasize academic freedom, but they face a variety of challenges. At the time of our review, 12 U.S. universities were operating degree-granting institutions in China. In reviewing their written agreements and other policies, we found that they did include a variety of protections for academic freedom. For example, one university's agreement stated that everyone at the institution in China will have unlimited freedoms of expression and inquiry and would not be restricted in the selection of research or lecture topics.

We also interviewed more than 130 faculty and students who generally reported that academic freedom had not been restricted for them and that they could study and discuss any topic. However,

we identified two key challenges to learning at U.S. universities in China.

First, fewer than half of the universities that we reviewed had uncensored Internet access. Students and faculty told us that having restricted access to the Internet limited both their teaching and their research.

Second, administrators, faculty, and students representing more than half of the universities gave examples of self-censorship. For example, an administrator at one university suggested that it was advisable as a guest of China to refrain from insulting China. Another administrator noted that the university advises teachers to avoid discussing sensitive subject in their classes.

Chairman Portman, Ranking Member Carper, and Members of the Subcommittee, that concludes my prepared statement. I look forward to your questions.

Senator PORTMAN. Thank you, Mr. Bair. Mr. Douglas.

**TESTIMONY OF WALTER DOUGLAS,[1] DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. DOUGLAS. Chairman Portman, Ranking Member Carper, Members of the Subcommittee, thank you for the invitation to discuss the State Department's public diplomacy efforts in China.

U.S. diplomats carry out a range of public diplomacy activities in China. This includes both policy-related messaging as well as cultural and education exchanges. Our diplomats do this work despite restrictions by Chinese authorities, which I will describe in more detail later in this statement.

Our public diplomacy in China is conducted through our six diplomatic posts there: the U.S. Embassy in Beijing and five consulates spread throughout China. We have a total of about 110 staff—including Chinese-speaking American diplomats and local employees—as well as a budget of $31 million to support public diplomacy functions.

By and large, Chinese citizens welcome U.S. public diplomacy, but the Chinese Government impedes access to some segments of Chinese society, including in academic settings.

To give a recent example, this past November U.S. Ambassador to China Terry Branstad was scheduled to speak at a Chinese university campus, but the visit was canceled with just 2 days' notice. This is just one of many cases of unexplained and sudden cancellations experienced by U.S. diplomats attempting to visit universities.

We have also seen the obstruction of programs related to the U.S. Government-funded American Cultural Centers. The American Cultural Center grant program was started in 2010 specifically for China. Until it was discontinued in 2018, the program awarded a total of about $5 million in grants ranging from $10,000 to $100,000. These grants were given to 29 American universities to establish American Cultural Centers on Chinese university campuses.

[1] The prepared statement of Mr. Douglas appears in the Appendix on page 66.

Although the program had many successes in the early years, beginning in 2014 Chinese authorities started unduly restricting the activities of our centers. In 2015 and 2016, severe restrictions came into effect, and some of the centers were forced to close down. Today there are three remaining U.S. universities that are conducting previously funded American Cultural Center-related activities, which they will conclude by the summer of 2019.

These restrictions on American Cultural Centers stand in stark contrast to the ability of Confucius Institutes to operate free from government obstruction in the United States.

In 2017, the U.S. Embassy in Beijing decided to discontinue funding for the American Cultural Center program. This decision was solidified in a recommendation by the Department's Office of Inspector General (OIG).

Chinese universities or scholars who would like to engage with U.S. diplomats are often prevented from doing so, either by their university's internal foreign affairs officers or by security authorities. When meetings do take place, Chinese authorities require participants to submit detailed reports of their conversations. These intimidation tactics pressure our interlocutors to be cautious—they refuse or limit interaction with U.S. diplomats. As a result, the ability of U.S. diplomats to engage with ordinary Chinese people is stifled. In contrast, we note that Chinese diplomats here in the United States regularly address public audiences, free from obstruction by the U.S. Government, including on university campuses.

U.S. Government-funded exchange programs are another way we engage the next generation of China's leaders and opinion makers. For example, the International Visitor Leadership Program brings between 120 and 150 rising leaders each year from across China to the United States for 3-week study tours. However, unlike in other countries, authorities force about 20 percent of the candidates to withdraw their participation at the last minute. This is yet another avenue through which the Chinese Government limits who can have access to information about the United States. The State Department takes notice when incidents like these take place. In just one 16-month period, there were more than 150 instances involving denial of permission to meet an official, cancellation of an event with a partner organization, withdrawal of a Chinese participant from a U.S. Government-funded exchange program, or intimidation of a Chinese citizen who had been in contact with U.S. embassy or consulate personnel.

We continually convey to the Chinese Government that we expect reciprocal access for U.S. diplomatic personnel and programs in China. In spite of these restrictions, we work to reach the broader Chinese public through traditional media and social media. In particular, our diplomatic posts in China maintain a robust social media presence, reaching an average of more than 3.5 million Chinese citizens each day. Our social media postings receive thousands of likes, comments, and shares daily, showing the Chinese public's eagerness to engage in discussion about U.S.-related topics.

But similar to the restrictions placed on our direct campus engagement, our social media platforms in China experience censorship by the Chinese Government several times each week. This

censorship stands in stark contrast to the unhindered use of social media enjoyed by the Embassy of China in Washington, D.C., which launched its Facebook page over a year ago.

We continually convey to the Chinese Government that the United States expects reciprocity in the use of social media. The Department welcomes the Subcommittee's inquiry into the questions of reciprocity regarding U.S. and Chinese public diplomacy efforts. As noted in the report, the Department's public diplomacy efforts in China have indeed experienced restrictions. This presents a challenge but not an insurmountable one. The State Department continues to work toward reaching ordinary Chinese citizens, in facilitating dialogue between our peoples, and in promoting American values.

Thank you, Mr. Chairman. I look forward to answering your questions and those of other Members of the Subcommittee.

Senator PORTMAN. Thank you. Ms. Galt.

**TESTIMONY OF THE HON. JENNIFER ZIMDAHL GALT,[1] PRINCIPAL DEPUTY ASSISTANT SECRETARY, BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS, U.S. DEPARTMENT OF STATE**

Ms. GALT. Chairman Portman, Ranking Member Carper, Members of the Subcommittee, thank you for the opportunity to speak with you today. My testimony will focus on the State Department's responsibility to regulate and monitor the participation of Chinese nationals in the Exchange Visitor Program. This program makes it possible each year for over 300,000 exchange visitors from nearly 200 countries and territories to travel to the United States to participate in educational and cultural exchanges.

As mandated by Congress, the State Department's Bureau of Educational and Cultural Affairs works to advance U.S. foreign policy by building friendly, peaceful relations through exchange programs that strengthen national security, support U.S. international leadership, and provide a broad range of domestic benefits.

The Fulbright Program and the International Visitor Leadership Program are the U.S. Government's flagship exchange programs funded through annual congressional appropriations. In addition to these, the Bureau oversees fee-funded exchange visitor programs, which are carried out by nearly 1,500 public and private entities that the State Department designates as sponsors; no appropriated funds are spent on these programs.

The Office of Private Sector Exchange is sponsored with promulgating, implementing, and enforcing Federal regulations that govern all aspects of the Exchange Visitor Program. Entities seeking designation must apply separately for authority to conduct programs in one or more of the 13 private sector categories of exchange.

Exchange visitors from China comprise approximately 11 percent of the more than 300,000 Exchange Visitor Program participants from around the world.

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[1] The prepared statement of Ms. Galt appears in the Appendix on page 71.

Chinese exchange visitors associated with U.S. colleges and universities that host Confucius Institutes are one element of Chinese participation in the Exchange Visitor Program. Confucius Institutes are typically set up as collaborations between a U.S. and a Chinese university. The State Department does not have a role in the creation or funding of Confucius Institutes. Our responsibility begins when a U.S. college or university that is a designated sponsor places an exchange visitor in a role that is related to a Confucius Institute.

As part of our its routine sponsor monitoring, the Office of Private Sector Exchange learned in 2012 that a number of Chinese exchange visitors participating in the Research Scholar category were inappropriately placed at K–12 schools as Chinese language teachers. Accordingly, the Department issued a Guidance Directive to potentially affected sponsors providing procedures for regularizing the program status of exchange visitors who were under the incorrect category. The Guidance Directive clarified that exchange visitors in one of the university-based academic categories cannot serve as primary teachers for K–12 students—activities that more appropriately belong in the Teacher category.

Follow up reviews since 2012 have shown that in some instances Chinese exchange visitors continued to teach at K–12 schools. As a result, the Office of Private Sector Exchange has further focused its monitoring efforts and taken steps to improve compliance.

In November 2017, the office wrote to the nearly 1,000 college and university sponsors reminding them of the 2012 Guidance Directive. We have conducted "meet and greets" with 25 academic program sponsors affiliated with Confucius Institutes and carried out five more targeted field site reviews and electronic site reviews. We have scheduled four field site reviews for 2019, and we will conduct additional electronic reviews. This effort has prioritized institutions where the potential for category confusion appears to be the greatest.

Two of the previous field site reviews and two of the electronic reviews resulted in the issuance of Letters of Concern to the sponsors, documenting areas of regulatory vulnerability and encouraging them to modify their programs to achieve and maintain regulatory compliance. Where K–12 teaching associated with Confucius Institutes was problematic, these university sponsors have since ceased those activities based on our outreach to them. In two cases, the Office of Private Sector Exchange worked closely with the Bureau of Consular Affairs which revoked the visas of exchange visitors who had entered the United States to teach, but not through a sponsor properly designated in the Teacher category.

The Department of State takes seriously its oversight responsibility of the Exchange Visitor Program and its obligation to monitor designated sponsors and exchange visitors for possible violations of the regulations. We continue to refine our processes to improve regulatory compliance of all designated sponsors, including those who work with Confucius Institutes.

Mr. Chairman, I thank you for your attention to the critical issue of Chinese interference in U.S. education. The Bureau of Educational and Cultural Affairs stands ready to cooperate with your

ongoing review of this matter. I am happy to answer any questions you might have. Thank you.

Senator PORTMAN. Thank you, Ms. Galt. Dr. Zais.

**TESTIMONY OF THE HON. MITCHELL M. "MICK" ZAIS, PH.D.,[1] DEPUTY SECRETARY, U.S. DEPARTMENT OF EDUCATION**

Mr. ZAIS. Chairman Portman, Ranking Member Carper, Senator Hassan, thank you for the opportunity to appear before you today. As a retired Army Brigadier General, former college president, and former Chief of War Plans in the Pentagon, I understand the importance of ensuring that our colleges and universities remain free from malign foreign influence. These concerns surfaced about 30 years ago, and consequently, in 1986 Congress amended the Higher Education Act of 1965 to require institutions to disclose gifts from and contracts with foreign sources.

In your letter of instruction and invitation, you noted your intent to examine the Confucius Institutes and the impact of the Chinese Government on the U.S. education system. You asked me to address foreign gift reporting, and I am pleased to respond on both issues. Before addressing the Confucius Institutes, I will provide information on the foreign gift and contract disclosure requirements.

The law requires that 2-year and 4-year degree-granting institutions disclose gifts from and contracts with a foreign source in the amount of a quarter of a million dollars or more in 1 year. Also, any institutions owned by or controlled by a foreign source must disclose this information.

Since these requirements have been in place, the Department has issued two Dear Colleague letters—one in 1995 and one in 2004—to clarify these issues and provide instructions for submitting reports. These requirements are also included in the Federal Student Aid Handbook.

There are approximately 3,700 institutions in the United States that are covered by these requirements. Most recently, fewer than 3 percent of those institutions reported receiving foreign gifts in excess of a quarter of a million dollars from a single source or country.

There are limitations to the reports since the data are self-reported. Some colleges and universities have independent but affiliated nonprofit research, endowment, and alumni foundations which deliver contracts and gifts. It is unclear which schools report foreign gifts that are channeled through these foundations since the statute does not reference them.

To collect the required information, the Department uses the same electronic system that schools use to apply for Federal student aid. The system reminds and prompts institutions to provide the required information.

Since 2012, the Department has made these reports available on the Federal student aid websites in the interest of transparency. The information is updated twice a year.

During the most recent school year, 91 institutions reported receiving gifts of over $1.3 billion in gifts and contracts from sources

[1] The prepared statement of Mr. Zais appears in the Appendix on page 75.

in 105 countries. China ranked first in the amount, with about $222 million in gifts and contracts. This constituted about 17 percent of the total.

Regarding the impact of the Chinese Government and Confucius Institutes on higher education, we recognize this is a concern. As you know, Confucius Institutes are partnerships between the Chinese Government and U.S. colleges and universities, each of which has their own agreement. Recently, as you know, a number of these institutions have terminated their agreements. We fully understand and share your concern about the need to keep malign foreign interests from compromising the academic integrity of American colleges and universities while respecting the importance of institutional autonomy and academic freedom.

As your Subcommittee reviews the issues presented by the Confucius Institutes, the Chinese Government, and foreign gifts and contracts to our colleges and universities, the Department stands ready to work with you on the way forward. Thank you for the opportunity to testify today, and I look forward to your questions.

Senator PORTMAN. Thank you, Dr. Zais, and thanks to all our witnesses. We look forward to a dialogue. I will be here for the entire hearing, and I see some of my colleagues have arrived and have conflicts. I am going to delay my questions until they have a chance. I will first turn to Senator Carper.

Senator CARPER. Let me yield to Senator Hassan, if you would like to go first. I am going to be here for the duration.

Senator HASSAN. I think I am yielding to Senator Peters. We will just play musical chairs here. [Laughter.]

Senator CARPER. In that case I am not going to yield to—— [Laughter.]

Because I do not like this guy. I am happy to yield.

**OPENING STATEMENT OF SENATOR PETERS**

Senator PETERS. Well, thank you, Mr. Chairman and Ranking Member, and, Senator Hassan, thank you so much.

Senator HASSAN. You are welcome.

Senator PETERS. I certainly want to thank the Chairman for hosting this very important hearing on the impact on our Nation's education system that the Chinese may be having, and I thank our witnesses for being here today.

This hearing is certainly consistent with our bipartisan work in the Committee, and, particularly as the principal oversight Committee for the U.S. Senate, with how seriously all of us take the oversight function. In that vein, I actually have a question outside of the scope of this hearing, but one that is incredibly important for the oversight of the Administration, and that is to Deputy Secretary Zais.

Deputy Secretary Zais, on January 3, 2019, the Department of Education Acting Inspector General (IG) Sandra Bruce received a letter from you urging her to, and I quote, "reconsider any plan that her office might have to review" a Department of Education

decision. I think the letter has just been handed to you. Is that your signature at the bottom of the letter?[1]

Mr. ZAIS. Yes, sir, it is.

Senator PETERS. Deputy Secretary, did Secretary DeVos or her designee or any employee of the White House direct you to send that letter?

Mr. ZAIS. No, Senator, they did not.

Senator PETERS. You just did that on your own?

Mr. ZAIS. I worked with the staff and the chief of staff in composing that letter.

Senator PETERS. As you are aware, the subject of the Education Department decision being reviewed by the Acting Inspector General was the Accrediting Council for Independent Colleges and Schools (ACICS). It is a major accreditor for for-profit colleges. Did you, Secretary DeVos, or her designee communicate with ACICS or anyone acting on their behalf regarding the IG investigation?

Mr. ZAIS. We did not.

Senator PETERS. As mentioned, your letter was sent on January 3. On January 31, Ms. Bruce was notified that she was being replaced as Acting Inspector General by the Department's General Counsel (GC), a decision that was later reversed under pressure. The Department has confirmed that the decision to replace Ms. Bruce was initially recommended by the Department, not the White House. Did you participate in conversations with Secretary DeVos or her designee, or with any White House employee regarding the designation of a new Acting Inspector General?

Mr. ZAIS. I did not.

Senator PETERS. Earlier this week, my colleagues on the Education Committees received a response from the Department to an oversight letter on this topic. Unfortunately, the Department's response was wholly inadequate and does not address the vast majority of our questions, concerns, and requests for documentation. The Department's response cites, and I quote, "Executive Branch confidentiality interests" as a reason not to produce the requested documentation.

My question to you: Has the President invoked Executive privilege?

Mr. ZAIS. Not to my knowledge, Senator.

Senator PETERS. Has the Department performed a document search of records that would be responsive to the request of my Education Committee colleagues or the follow-up letter from February 19th that was sent from the Democratic leadership of all House and Senate Education and Oversight Committees, including this full Committee?

Mr. ZAIS. Senator, I do not know, but I certainly will investigate.

Senator PETERS. Has the Department issued a preservation order to ensure that documents responsive to our request will not be destroyed?

Mr. ZAIS. I can assure you that documents will not be destroyed that are relevant.

Senator PETERS. This is my final point, and thank you again, Mr. Chairman. Can I have your commitment that my colleagues and I

[1] The letter referenced by Senator Peters appears in the Appendix on page 176.

will receive a full and complete response to our letters from February 1st and February 19th no later than March 5th?

Mr. ZAIS. Senator, we will work to expedite response to your inquiries.

Senator PETERS. I appreciate it. I appreciate your answers. Thank you so much.

Mr. Chairman, thank you very much.

Senator PORTMAN. OK. I plan to reclaim my time unless my colleagues are going to ask questions about this hearing.

Senator CARPER. I am happy not to speak yet, but I just want to say that was probably the most succinct series of responses I have heard in 18 years.

Senator PORTMAN. Yes, very succinct, and that was good. But are we going to talk about the focus of our 18-month investigation? If not, I will ask some questions about that.

Senator HASSAN. I certainly have questions about the report. I certainly as a member of the Health, Education, Labor and Pensions (HELP) Committee also have the same concerns that Senator Peters raised, and so I think, as always, we respect each other's use of our time.

Senator PORTMAN. Exactly, but I just want to be sure we have the opportunity to ask some questions about——

Senator HASSAN. Of course. I have questions prepared for that, but I also just want to indicate that I share the concerns that Senator Peters just raised.

Senator PORTMAN. Senator Hassan.

**OPENING STATEMENT OF SENATOR HASSAN**

Senator HASSAN. Thank you, Mr. Chair, and I want to thank you, Senator Portman and Ranking Member Carper, for your continued attention to the issue of foreign influence in the United States education system. Thank you to all of the witnesses for being here today, for your service, for your appearance, and for your very informative testimony.

I want to start with a question to you, Mr. Zais, and to Mr. Douglas. It is clear that U.S. schools have challenges with establishing and maintaining Confucius Institutes. For example, faculty at some schools have raised concerns that Hanban, the Office of Chinese Language Council International, is able to exert influence over the development of curriculum or program requirements related to Chinese studies at U.S. schools. I think I speak for all of us in saying that the Chinese Communist Party cannot have an unchecked voice or promote a select agenda in the United States as part of a larger propaganda or government-directed national campaign.

To address some of these concerns, some schools have developed their own safeguards against influence on academic affairs through faculty-led initiatives. For example, the University of New Hampshire has taken steps to ensure that all curriculum and programs are developed solely by its own faculty, hired a tenure-track faculty member to direct Chinese studies programs, and put in place processes for the review and approval of Confucius Institute's programs and course material by an academic oversight committee in the College of Liberal Arts.

Let us start with Mr. Zais. In addition to some of the recommendations in the Subcommittee report that highlight the need for additional transparency, is there a role for the Department of Education to support schools that wish to continue to implement these kinds of safeguards to help ensure the integrity of these programs?

Mr. ZAIS. Senator, we are always concerned with institutional autonomy, academic freedom, and any threats to academic freedom. We will work with schools at their request to help guarantee that, and if they request support in crafting appropriate agreements, we would be willing to provide that support.

Senator HASSAN. Do you think it is appropriate, though, for the Department to reach out? Because now that this report has been issued and there have been some concerns about the behavior of some of these institutes on some campuses, it may be incumbent on the Department to do the kind of outreach to schools that may not be aware of this report or may not be aware of some of the activities that some of the Confucius Institutes and their members have engaged in.

Mr. ZAIS. We are willing to work with the Committee to make all of our Hanban institution schools and sponsors aware of the results of these investigations and reports.

Senator HASSAN. OK. Let me ask, Mr. Douglas, I would like to understand how the Department of State can engage Chinese Government representatives in ensuring that Confucius Institute contracts are developed in consultation with U.S. entities and are transparent?

Mr. DOUGLAS. OK. Let me say my responsibilities start at the water's edge and go out rather than in.

Senator HASSAN. OK.

Mr. DOUGLAS. As I mentioned in my remarks, when we are harassed overseas, we regularly bring this up with the Chinese authorities and expect reciprocity. But on the agreements that they have with the universities, we do not interfere with that.

Senator HASSAN. Ms. Galt, is that your realm?

Ms. GALT. Senator, I would be happy to answer that. The State Department, as I mentioned in my testimony, does not have authority over Confucius Institutes per se because they are not designated sponsors to host international visitors to the United States.

Senator HASSAN. Between the Department of Education and the Department of State, how are we going to get to a place where we are following some of the recommendations of this report? Because my colleagues have mentioned and you have shared today recommendations that certain components of the contract should be eliminated, including the components that make the contracts confidential. How is—or who among and in the executive branch is going to say to the Chinese Government keeping these contracts confidential is not acceptable?

Ms. GALT. I would just say as a Department we are involved in a larger discussion with U.S. universities about the importance of transparency and about the importance of protection of academic freedom. That conversation is ongoing, and we are involved in that conversation.

Senator HASSAN. I think what I would like to suggest is that we be more involved. I think there has to be a way to let the Chinese Government know that if they have an interest in having these institutes on our college campuses, their contracts have to be transparent, that they cannot keep the terms of those contracts confidential. I would look forward to working with all of you to figure out how we can make that happen.

Ms. GALT. We would welcome the opportunity to discuss that further.

Senator HASSAN. OK. I thank you for that. I do want to get back—and I respect the Chair's interest in making sure we focus on the report, which is a very important report and something that, again, I think we all need to continue to work to implement the recommendations of. But I did just want to go back, Mr. Zais, to follow up on what I think I heard was a commitment from you and the Department to Senator Peters. I am on the HELP Committee. I have been on letters to the Department to try to understand why the ACICS entity was recredentialed. I have expressed concerns about the Department's citations, about recommendations for this entity that were not true. I want to make sure that we do, in fact, get a response, a much more adequate response than the letter we got from Mr. Oppenheim on February 25th to our letters about this.

Can I have your commitment that the Department will provide a full and complete response to the letters sent on February 1st and 19th? Can you do it no later than March 5th?

Mr. ZAIS. Senator, we will work to expedite a response.

Senator HASSAN. OK. Please just note also for the record that this letter cites something called the "Executive Branch Confidentiality Interest," and I am unaware of such an interest that would allow the Department to fail to respond to a congressional inquiry.

Thank you.

Senator PORTMAN. Senator Carper.

Senator CARPER. I would say to our fairly new member of our Subcommittee, sometimes the Chairman and I will yield to other folks on our Committee before we ask questions if they have other things they need to be doing, and I would be happy to yield to you, if you would like.

## OPENING STATEMENT OF SENATOR ROMNEY

Senator ROMNEY. I thank the Ranking Member for yielding and also the Chairman, the two of you, for bringing together this group and opening a discussion on something that I think is quite important. I appreciate the various witnesses coming today and testifying and providing information and perspective.

I think it is pretty clear that we and China have very different views on a whole host of very important topics, and I was just writing out a list here, but everything from how we deal with and welcome minorities in our civilization, what we believe about diversity, what we think about single-party rule, or how we would deal with Taiwan, for instance. Our perspective on censorship is very different. Our perspective on human rights is very different. The rule of law in our Nation and in their nation is very different. The South China Sea is an area of great conflict. The list goes on and

on. We have a number of things that are very different between the perspectives of a free people in the United States of America and the leadership of China.

I wonder whether these Confucius Institutes are part of an influence campaign by the Chinese Government to shape attitudes and the minds of the American children, the coming generations, as to those kinds of differences. Is this really a propaganda effort, a mind-shaping effort of our young people being carried out through the auspices of these Confucius Institutes? I would ask for your perspective and whether you believe that is the case.

Ms. GALT. Senator—first of all, thank you for the question. I would say generally the State Department supports international educational exchange. We support Americans learning critical languages. As you may know, the Bureau of Educational and Cultural Affairs, thanks to congressional support, conducts a number of programs to teach Americans. Language is critical to our national security, including Mandarin Chinese. We have the Gilman Fellowship for Young Americans, and we also have the National Security Language Initiative, which supports both high school and college students to go overseas and study languages critical to the United States' national security.

Senator ROMNEY. That makes all the sense in the world, to study other languages and to learn about other cultures. But the question I have is whether the Chinese Government is selecting individuals, funding individuals into our educational institutions with the intent not just of letting us learn an important global language and a different culture, but also to gain a perspective on a host of issues where they and we have differing points of view, whether this is, in effect, an influence campaign, whether it is being financed as an influence campaign to shape public opinions of our young people.

Mr. BAIR. Thank you for the question. I would say that in the course of the work that we did looking at Confucius Institutes, the one thing that really popped out for us was the variety of activities that they do. You certainly heard about the language training, and I think as Ranking Member Carper talked about in his statement, there are a variety of other cultural events that they focus on, holiday celebrations, cooking events or things like that. We did not really focus on questions you were focused on there, but I think that it is notable, the variety of activities that they perform.

Senator ROMNEY. I am not sensing anyone jumping to the bait on that, and perhaps we do not have information about that. I guess that is the question in my mind, which is, I would welcome the chance to learn about a foreign language, the culture of another people, but it would be a very different matter to have people coming in from another nation that has such dramatically different perspectives than we do in our country if their intent in coming to our country is to inculcate those attitudes and views among our young people. I would hope that there is a way for us to be able to determine whether that is occurring and the extent to which it is occurring, and if it is occurring, to provide a warning to educational institutions about the potential concern that would obviously be attached to something of that nature.

You have also spoken about reciprocity and the opportunity for us to be able to share our culture and language in their nation. That has apparently been very difficult to obtain, the kind of reciprocity that we had hoped, and I would anticipate that the degree to which we are able to welcome and provide visas and so forth to those that want to become part of Confucius Institutes here would be gauged to a certain degree to the kind of welcome we receive there and wonder whether we are taking action to make sure that there is, if you will, a reciprocity here with the degree of welcome that we have there. Is that the case or is there more to be done there?

Mr. DOUGLAS. Yes, and because I am here to speak about what we do in China, when we are harassed or when things are blocked or upset, we regularly protest to the Chinese Government that we expect the same treatment here that we give to your embassy in the United States. We regularly make those protests. How successful they are, that is another matter, but we do regularly approach them. I have done it myself actually when I have been visiting China and make it very clear that we expect that.

Senator ROMNEY. Yes, that is, I think, wise and effective. I would also suggest that in some respects we might respond in the same way with their requests that they respond to ours. It is one thing to protest when they do things that we do not approve of. It is another thing to say, well, if you are going to do that to people that we are trying to encourage to be part of your system, why, then, we are going to do the same to yours. That seems to concentrate the mind more than protest.

I am happy to return the time back to the Ranking Member or the Chairman. I think my time is up.

Senator PORTMAN. Thank you. I really appreciate your comments, Senator Romney, and I think you are hitting the nail on the head. I think the question is whether this Confucius Institute funding and the activities that they engage in is something that is consistent with our traditions here. What we found in our report, of course, is that it is not. The GAO found the same thing in their reporting, and I think Mr. Douglas might be a little more forthcoming in a moment when he talks about how we are treated over there, because you are absolutely right, we do not have reciprocity there. This is why the State Department has to actually shut down our program there because they cannot operate and so there is no reciprocity. Mr. Douglas has been good about that in his opening statement, and we are going to ask him some more questions about it. I appreciate your questions, but also your insights, and I think they are accurate.

Mr. Bair, thank you for working with us, and, in fact, issuing your report last night in conjunction with ours. You did a separate investigation. Yours had a slightly different focus, as you indicated, but I think we both showed that there is a lack of transparency at these U.S.-based Confucius Institutes that does implicate academic freedom, among other things.

You have talked about the level of control and the lack of transparency. For example, officials told the Subcommittee that the Confucius Institutes were not the place to discuss topics like the independence of Taiwan or the Tiananmen Square massacre.

Your report said, for example, that researchers told you that a Confucius Institute "could choose to avoid hosting events on certain topics elsewhere on campus, such as Taiwan, Government of Tibet, or the Tiananmen Square massacre so as not to offend its Chinese partners." Can you elaborate on that self-censorship?

Mr. BAIR. Absolutely. Thank you for the question. I think that is an important topic, and it is one of the central issues that we dealt with in our report.

Let me start with the issue of transparency. I think as I talked about in my opening statement, one of the notable things about the agreements that we got copies of between the U.S. university and their Chinese partner was whether those agreements were going to be able to be publicly available. What we found was that 42 of the 90 contain specific clauses making them confidential or in some way limiting the public release of those documents. When we talked to a variety of stakeholders and faculty and administrators, a number of them raised that issue. Whether it was real or apparent, it creates at a minimum concern about what is in those agreements. A number of universities that we spoke to were willing to share those agreements with us, and I think a number of the stakeholders think that that is a really important first step.

Senator PORTMAN. Mr. Bair, let me take you to Exhibit 1 just because you made the point about these contracts. If you look in your binder, it is in front of you, and I will, without objection, enter Exhibit 1[1] into the record today.

There are some concerning provisions. For instance, the contract States, as you will see there, that the Chinese instructor should "conscientiously safeguard national interests." Again, these are Chinese instructors who are here on a visa in the United States. The contract terminates if the Chinese instructors "violate Chinese laws"—so they are subject to Chinese laws here in America—or "engage in activities detrimental to national interests."

This is on a college campus where we pride academic freedom, and these are the restrictions placed on that Confucius Institute instructor. We were not able to find many contracts because, as you say, they are hard to find and some are confidential. This one might have been, but we were able to obtain it.

Your report also found that some school officials expressed concerns that the Confucius Institute hiring process did not follow their own hiring processes for teachers at the university. In fact, your report found that some schools did not have, as I quote from your report, "full control over selecting its teachers."

Why is it concerning that U.S. schools have foreign teachers, one, signing these contracts with contract law to be enforced by Chinese law; and that, second, conscientiously safeguarding the national interests is one of the requirements and they can be terminated if they engage in activities detrimental to national interests, in addition to the fact that these schools are not following their normal hiring procedures in order to hire these individuals, some of whom do teach credit courses? Can you respond to that?

Mr. BAIR. Let me try to the best of my ability to talk about what we heard during the course of our review, and you very appro-

[1] Exhibit 1 referenced by Senator Portman appears in the Appendix on page 178.

priately point out some of the concerns that, frankly, were expressed to us as well about the hiring process for these teachers.

I will say we heard a mix of views. We certainly talked to a number of universities that either had chosen to close their Confucius Institute or had considered opening a Confucius Institute but had made a decision not to. One of the reasons was that they did not feel like they had full control over the hiring process, and that was a deal breaker for them. They made a decision that they thought was in the best interest of their university.

Some of the Confucius Institutes that we visited that were open during the course of our review, though they may have had some concerns, felt that they had the final decisionmaking authority over who they would hire, and they were choosing from a set of applicants. They were comfortable with that decision. The opinions really differed on that issue.

Senator PORTMAN. On research, quickly, your report found that Confucius Institutes also sponsored Chinese-related research projects for U.S. students and U.S. professors, and those proposals had to be approved by the Chinese Government first. You said that several school officials expressed concern or uncertainty about whether a Confucius Institute would sponsor a research project on a "topic that could include criticism of China."

Going to academic freedom and research, that certainly is not consistent, as Senator Romney was talking about, with our traditions here.

Mr. Douglas, so much to talk about in terms of the Chinese part of this. Let me just ask you something sort of straightforward here. Can you describe to us what reciprocity means in international relations? Quickly.

Mr. DOUGLAS. I am not a lawyer, and I do not know what the legal term is, but I assume——

Senator PORTMAN. But you are a diplomat.

Mr. DOUGLAS. Right. If one side does something, the other side could do it, too.

Senator PORTMAN. Yes. The State Department has found that the Chinese Government essentially shut down one State program known as the "American Cultural Centers." We talked about this earlier. Let me ask you a couple questions about the State Department and your relationship with ACC programs as compared to what we talked about in terms of the Chinese relationship with the Confucius Institutes.

Do State Department contracts with the ACC programs have a clause that says that the schools must conscientiously safeguard U.S. interests?

Mr. DOUGLAS. No.

Senator PORTMAN. Do you vet or screen U.S. professors for the ACC program?

Mr. DOUGLAS. No.

Senator PORTMAN. Does the State Department require that they approve every ACC event?

Mr. DOUGLAS. No.

Senator PORTMAN. Does the State Department maintain veto power over proposed speakers or lecture topics at ACCs?

Mr. DOUGLAS. No.

Senator PORTMAN. Does the State Department always provide U.S. schools with preapproved textbooks or materials for an ACC?

Mr. DOUGLAS. No.

Senator PORTMAN. Does the State Department grant agreements with U.S. schools that have confidentiality or nondisclosure provisions as we talked about?

Mr. DOUGLAS. Not that I know of, no.

Senator PORTMAN. To summarize, the State Department does not maintain control over teachers, topics, or speakers at an ACC in China?

Mr. DOUGLAS. That is exactly right.

Senator PORTMAN. OK. That does not sound like reciprocity the way you have described it.

Mr. DOUGLAS. Yes. This is how we deal with it in the American system with American values when we go overseas, and that is really where in public diplomacy what we focus on, is what we do overseas. That is how we operate worldwide.

Senator PORTMAN. Yes. Let me ask you this: We talked about the 100 Confucius Institutes at college campuses and about 500 in K–12. How many American Cultural Centers is the State Department funding in China today?

Mr. DOUGLAS. Three, and they are holdovers. Their funding will run out. It is just the remains of what funds they have, but the others have been closed down. We stopped the funding.

Senator PORTMAN. After the summer, how many will there be in China?

Mr. DOUGLAS. They go down to zero.

Senator PORTMAN. Zero. OK. Thank you. I have exceeded my time, but I am going to come back later with more questions.

Mr. DOUGLAS. Sure.

Senator PORTMAN. Senator Carper.

Senator CARPER. I am sitting here thinking about a couple of our former colleagues. One is a guy named Biden who served here for, part of seven terms, and he was the senior Democrat on the Foreign Relations Committee for many of those years, Chairman for many years. He has a lot of sayings. He and I served together in a lot of capacities, and I have heard them all. One of my favorite Joe Bidens is, "All diplomacy is personal." He also said that about all politics is personal, and I think there is a lot of truth to that.

I was mentioning to our Chairman as an aside earlier in the hearing that there was once a rising Chinese official who came to the United States and he was interested in learning more about agriculture. He wanted to go to our breadbasket, our heartland, and he ended up in a couple of States. One of them I think was Iowa, and he was hosted by the Governor there. They kind of hit it off, had a good visit; the guy learned a lot. Later on, the Governor was on a trade mission to China, and they would cross paths again. The Chinese official is a guy whose last name is Xi, and the American Governor is a guy whose last name is Branstad, now our Chinese Ambassador. I think about them and their friendship over all these years, and I think about what Joe said about diplomacy being personal.

We had our caucus retreats last month. Democrats had their caucus retreats, and Republicans had theirs. We never do them to-

gether. We almost never eat together either. We focus in our retreats on things that divide us. I have talked to some of my Republican colleagues about their retreat, my moles, and they said they spend a fair amount of time focusing on what divides us as well. I think one of the things that is important in our relationship with China—it is a huge country, huge trading partner, and they are going to be around for a long time, hopefully we will, too, and we have to figure out how to get along with them.

Having said that, I do not like being taken advantage of, and I should ask the audience: Anybody out there like being taken advantage of? None of us do. So, the challenge is how do we make sure we are not going to be taken advantage of as a Nation, have our stature diminished, our strength diminished by these guys and gals, and at the same time do what we can to find areas of agreement.

One of our colleagues is a guy named Enzi here from Gillette, Wyoming, a wonderful guy, a Republican conservative. He and Ted Kennedy used to have a great relationship when they were the senior Senators on a lot of committees that Senator Romney is on. The HELP Committee got a huge amount done. I once asked Senator Enzi, I said, "How do you guys work so well together?" He said, "We focus on the 80–20 rule." I said, "What is that?" He said, "We focus on 80 percent of what we agree on. We set aside the 20 percent where we do not agree, and we get a lot done as a result."

I think it is important for us to use a similar kind of rule with the Chinese—focus on the areas where we agree, set aside some areas we do not agree—and that is probably not a bad recipe. That does not mean we always agree when they try to use cybersecurity to steal our trade secrets, or to steal our military secrets. That does not mean we should agree with them when they do unfair things on the trade side. But having said that, it is important that we do find ways to agree.

Let me ask you a question. I think Senator Romney asked a couple of really insightful questions. On the one hand, we want to be able to work with these folks where we can. On the other hand, we want to make sure we are not taken advantage of. I am going to ask each of you: What should we do in response to the kind of behavior that we see demonstrated by them and their reluctance or refusal to allow us to have reciprocity in their countries? What should we do? I think I will start with—a fellow whom my staff said, General, your name rhymes with "nice," and I found it does not. It rhymes with "mace." There you go—"face." It rhymes with "face." Take a shot at that question. Not a real long answer, but you had a great series of answers earlier.

Mr. ZAIS. Senator, if you know how to get reciprocity while still maintaining the lines of communication between our two societies, I do not know how to do that. I think we understand that everything in Communist China is run by the government. All their education system and everything. I do not know how you take politics out of interaction with that regime, that government.

Senator CARPER. Before I turn to Ambassador Galt, I mentioned to our Chairman and to you as well—I will just mention to our colleagues—I ran into Max Baucus yesterday, our former colleague, former Ambassador to China, and I am very much interested in

asking him—I just wish we had brought him here, pull him out of the audience, pull him up to the table, and say, "Well, what do you think, Max?" But I would like to pick his brain, and I would actually like to pick the brain of our current Ambassador there, Terry Branstad, with whom we served. Did you serve with him as Governor? He was Governor for Life and became Ambassador, maybe for life. We will see. But same question. We know we need to figure out how to get along with the Chinese. We do not want to be taken advantage of. We realize that cultural exchanges can actually be very helpful. They have worked in a lot of other places. I guess I am looking for the balance, the right balance here. How do we do this? You speak how many different languages? Six? Seven? Just use English for me.

Ms. GALT. Thank you, Senator. I am going to go a little bit off script here to answer your question.

Senator CARPER. I have gone off script, so you should be able to.

Ms. GALT. I am going to follow your lead. I think this is an essential question. I think it is a tough one to achieve that balance, so I would like to speak from my professional experience as a career diplomat.

Senator CARPER. You can even speak from your heart.

Ms. GALT. I spent 15 years of my career in China engaged in public diplomacy work, engaged in trying to explain the United States to the Chinese, and I have found that I think two elements of the solution are essential, and we need to just keep at them.

The first element is we need to call the Chinese out when they behave badly. Whether it is demarching on a canceled speech or an edited set of remarks or not allowing us to go to university campuses, I think we need to keep calling them out. We cannot do that enough, in my view.

The second thing I think we need to do——

Senator CARPER. Who is the "we"? I think you are right, but who is the "we" in "we should be calling them out"?

Ms. GALT. We, the State Department. That is what we do as diplomats stationed in mission China, and here in Washington we can amplify that message with Chinese diplomats posted here in the United States.

Senator CARPER. Occasionally, our President talks to their leader as well.

Ms. GALT. Absolutely. Absolutely, we can do this at all levels of our government.

Senator CARPER. And we have congressional delegations that go over there from time to time.

Ms. GALT. Yes. We have U.S. universities who engage, and they can share those messages from their own perspective.

Senator CARPER. So maybe the idea of a consistent message from "we"—us.

Ms. GALT. Yes.

Senator CARPER. Yes.

Ms. GALT. The second thing I think we need to do is continue to share American values and American best practices with young Chinese, with the next generation of Chinese. The Chinese students represent the largest number of international students in the United States, so we know there is continued interest in the high-

quality American education and the innovation and entrepreneurial spirit that we have in the United States.

There is value in the academic freedom and the world-class research that American universities offer, and I have to believe that that Chinese leader who visited Muscatine, Iowa, and the other Chinese who visit the United States learned something about our system and that that will make a difference in the long run. That is my public diplomacy heart speaking, and I think those are two elements of a possible solution, and I thank you again for the question.

Senator CARPER. You bet. I said earlier, Mr. Chairman—I know my time has expired. Can I have just 2 more minutes for a response, please, if you do not mind? I said earlier before other colleagues arrived that General Zais had a great series of responses of short answers, and I would say your response, you just hit a home run, with maybe a couple runners on base, so thank you for that.

Mr. Douglas, I am sorry you have to follow that, but go ahead.

Mr. DOUGLAS. First of all, let me say everything Ambassador Galt said I was going to say in various ways the same thing.

Senator CARPER. You would say, "I am Walter Douglas, and I approve this message."

Mr. DOUGLAS. That is good enough for me. I have been involved with public diplomacy since 1986. I joined the United States Information Agency (USIA), and then that has moved on. I have served in a number of various places. What you do see is that the engagement we have with public diplomacy does tend to have a long-term impact, and we see leaders all over the world who run our programs. Thirty years later, maybe 20 years later, you get the impact from that. We try to track how many of our world's leaders and world's cabinet members and those types have been on our programs, and we usually come up with a 20 or 25 percent number.

The Ambassador recently told me that a recent change of government in her country, in the new cabinet that came in, 14 of the cabinet members had been in one of our programs somewhere.

Senator CARPER. OK.

Mr. DOUGLAS. It gave us an automatic dialogue with those people, and friendliness. We see that in China. Ambassador Galt mentioned the tremendous number of students who come here. One of our programs that is very successful there is EducationUSA. We prepare them, give student advising, talk about preparing for coming to the United States. They have an impact when they come back with a much broader view of the United States.

Senator CARPER. Good.

Mr. DOUGLAS. I would say that across the board with all of our exchange programs. These do have an impact in the long term, and they do change attitudes. We have such an attractive society, people want to come here, that is a great and strategic advantage we have. Our soft power is awesome throughout the world, and as a public diplomacy officer, I really have seen the impact over time. The more we can expose people to the United States, the better off the long-term result is.

Senator CARPER. That is great. I am way over my time, Mr. Bair. I am not going to ask you—GAO does great work. We love what

you are doing and value it very much. Thank you all. That was terrific. Thank you. "Xie xie."

"Gong xi fa cai." That means, "Have a prosperous New Year," in this year of the boar, which just began recently. All the best.

Senator PORTMAN. Thank you.

I would like to ask Senator Hawley if he has some questions and to welcome you to the Subcommittee, as well as Senator Romney.

Senator HAWLEY. Thank you.

Senator PORTMAN. As you can see, we are kind of free-wheeling here. But we also do good nonpartisan work here which has ended up with some significant legislation in addition to our oversight responsibilities, and we are pleased to have both of you on the Subcommittee. Senator Hawley.

## OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you, Mr. Chairman and Ranking Member. It is a privilege to be here and to be part of the Subcommittee.

Let me come back to the public diplomacy angle, and, Mr. Douglas, I want to start with you. In your prepared testimony, you shared a lot of information, good information about the extent of Chinese Government interference and disruption with our public diplomacy efforts beyond even the experience of the American Cultural Center programs. You noted, for example, the Chinese Government efforts to disrupt some of our outreach from our embassy in Beijing, social media, etc.

I want to ask you about Chinese Government disruptions of our public diplomacy efforts outside of China and, in particular, perhaps the 68 countries that China considers part of the Belt and Road Initiative. I am just wondering, recognizing, of course, that China's footprint differs across those countries, have you noticed explicit cases or are you aware of explicit cases of Chinese Government interference, interruptions of U.S. public diplomacy efforts in those places? If so, what does that look like?

Mr. DOUGLAS. I would not say it is like that. It is generally more there is a competitive space out there that we both go and fill. We have our public diplomacy efforts; they have theirs. I think because our product is better to sell, and that is, in a sense, we have America, the United States and all its values, our programs tend to be more popular. We get large attendance. We do not have to force anyone to do anything about it. While we see they have some public diplomacy programs, I would not say they are as effective.

I would also note that we launched our first ever report of Chinese public diplomacy. It was presented in Singapore in June 2018 in which it underscored what their efforts are, how much they tie them into their economic policies. We also found that we needed to know more, so we have actually come with round two of that, and we have our second report that will be coming out in a few months which looks into more aspects of what Chinese public diplomacy is in the East Asia and Pacific Region.

For us, it is really helpful to have a better understanding of what they do. Yes, they are out there, but I do not think that—because of what they ultimately have to share with other countries, I do not think it has nearly the impact that we have.

Senator HAWLEY. Tell us a little bit about some of the ways that the Chinese Government attempts to interfere with our public diplomacy efforts apart from and in addition to our American Cultural Center programs.

Mr. DOUGLAS. Yes. We mentioned, for example, they are harassing some of our visitors for our International Visitors Program, 20 percent. I remember at one point there was even—one of the participants was at the airport and was pulled back. It can go to this very haphazard application.

I think in the absence of a rule of law it is unclear when and how they will do that, and it is something we live with. We still think that for the other percents that get through which are greater, these programs are very worth it.

We see the censorship on our social media platforms. We see censorship in general of everything we do. They might take an op-ed and hack it to pieces, keep some of it, let others be printed, other parts of it be printed. All along the line, you do not really know what is going to happen. There is a very haphazard, unpredictable application of whatever rules and regulations they have. We still just have to work with it. It is one of the difficulties of working in that country. But our officers are still dedicated to doing it.

I should note that there are—I mentioned Chinese speaking, as my colleague over here, and that is a very effective tool for us, that we have our officers who can be out there interacting not just with, say, Chinese Government officials. In public diplomacy, we tend not to do that. But we can cover a much broader range of opinion leaders, rising leaders, and those types because of our officers.

Senator HAWLEY. Tell us a little bit about some of the measures that we have taken. You talk about their efforts at disruption, some of which you say we just have to live with, we press on. But are there measures that we are taking to adapt, to respond, to curtail their interference, or just to try and get around their interference with our public diplomacy efforts?

Mr. DOUGLAS. I think what we look at—and I could say this is true everywhere we go, and I have served in, I do not know, nine or ten countries now. We have this toolkit of public diplomacy tools, and different ones are appropriate for different countries. My last overseas posting was India, an open, democratic country. You can pretty much do anything you want there. We never got "no." We never had any office say you could not do this. We never had anybody censored for what they have done.

But when you go to other countries, you have to look at what part of that toolkit is most appropriate. Where can you get the biggest bang for the buck? Our public affairs officers then choose from that what works and then actually see what works.

I mentioned EducationUSA because we know that the Chinese are very interested in studying the United States. It is something that they very much welcome, as any college advising they have, education advising even below college. What we try to do is promote those things where we know we can have a lot more success.

Senator HAWLEY. Thank you. In my time remaining, I just want to come back to the broad topic of these Confucius Institutes, which I understand we have been discussing quite a lot. I have to say that reading the report, looking at the spread of these institutes,

the degree of government control is really shocking, I think, and I think that the American public would be shocked and will be shocked to learn about exactly what is going on on these college campuses.

I am not sure to whom to direct this question, so let me just throw it out there for whomever. Can you just talk about broadly—I think one question that people will have when they hear about this is, well, why would an American college campus ever allow something like this to be on there? Why would they ever think this is a good idea? Why is that? Do any of you want to address that? How does it happen that we find ourselves in this circumstance to begin with? Mr. Bair?

Mr. BAIR. I would be happy to start with that. We visited a number of colleges and university campuses that host Confucius Institutes, and they had a variety of reasons. Some of them were interested in attracting more Chinese students, and so they thought that having a Confucius Institute might provide them some entree to get a greater number of Chinese students. As you have heard from others, about a third of the foreign students studying in the United States are from China, and so they viewed that as very attractive.

It also was an opportunity for them perhaps to have programs that they would not otherwise be able to fund related to, let us say, Chinese language. I think those were a couple of the key things that they mentioned for us.

Senator HAWLEY. How big of a component is funding, do you think, the availability of funds for programs the university might itself otherwise have to spend its own budget on?

Mr. BAIR. I would say the answer varies significantly by university. There are some very large universities which have a significant amount of funding available, and for them it is going to be less important. But for some of the smaller universities that might not otherwise be able to have access to those, it could be a more significant pull for them.

Senator HAWLEY. I would just note that the Chinese funds, the Chinese Government has invested over $158 million in funds over just this past decade, which is really staggering, I think, and quite significant.

Thank you all for being here. I see that my time has expired. Thank you, Mr. Chairman.

Senator PORTMAN. Thank you, Senator Hawley.

Senator Romney, follow up questions?

Senator ROMNEY. I would just add one additional thought, which is it is stunning to me that they have effectively closed down our cultural centers in China. We are going to be at zero by the end of the year. Yet they have 100 here, and we say, gosh, we are going to protest, and we are going to express how unhappy we are with them doing this. This is not so much a question as a comment, which is why are we not saying it is going to be harder for you to get visas for people to come here to become part of your Confucius centers? Because I think the Chinese, like other people, like myself, respond to action, and when they are able to keep adding more and more Confucius centers and bringing in people and in many cases inculcating people with values that we would find foreign and inap-

propriate, that we continue to allow that without taking reciprocal action and saying, "You do not have our centers, we are not going to have your centers." That would be part one.

Then part two, I would think it would be simply unacceptable in our country to have a faculty member on a university campus or at a K–12 institution that is subject to a contract with a foreign government as opposed to being subject only to the contract, the principles, and procedures of the American educational institution. I think in both those things we can take action. It is not necessary to have legislation to pursue that action, but I think in both cases we need to take action to assure that these institutions are, one, not part of an influence effort that we would find inappropriate; and, two, that the faculty members that are teaching at our institutions are abiding by American principles and the contracts of American institutions as opposed to the contract of a Communist Chinese Government. If you have any comment or thought, I am happy to have you have that opportunity.

[No response.]

Mr. Chairman, thank you for this——

Senator PORTMAN. I would like to comment on that.

Senator ROMNEY. Please.

Senator PORTMAN. I think, again, you are insightful and making good points. I would say two things.

One, threatening to discontinue the programs here might be very effective to open up what you have experienced in China, as Mr. Douglas has talked about. What we are talking about today, though, in our report is simply having the transparency that is required under law. With all due respect, the State Department has visited—how many? Two. Two out of the 110, until we started our investigation, now 100 colleges and universities, and you found violations at both, significant violations at both, yet there have not been any other site visits.

Dr. Zais, we know that 33 of the 48, 70 percent, of the U.S. schools that should have reported a contribution from a foreign government of over $250,000 have not done so. So, 70 percent of the schools are in violation. Yet you have not referred a single one to the Department of Justice, which is under law what has to happen. Justice cannot prosecute unless you refer.

It is even worse than you are saying in a sense. We are not nearer to the point of suggesting that we discontinue, but what we are saying is, unless there is transparency in at least following U.S. law, we ought to discontinue the existing practice because it is not consistent with traditions and practices, as we have talked about here in terms of the contracts with these teachers and the lack of academic freedom. But, second, it is not even following our own laws, and we are not enforcing our own laws.

Finally, I will say, the second point is that the Chinese Communist Party Central Committee just a few days ago published a document saying that Confucius Institutes remain a key government policy and said that China now plans to optimize the spread of Confucius Institutes. I do not blame them. It seems like it is working pretty well for them if you are the Communist Party in China. We are not sure what "optimize" means. It might mean a rebranding effort in ways that would intend to seek even more of

their interests, national interests, as we talked about in these contracts, and less transparency and less disclosure. I think this is a serious concern, and I think both of you outlined that well. We want more exchange, of course. We want more engagement. We believe that China ought to be a strategic partner in addition to being a strategic competitor. Yet it has to be on some basis of a level playing field.

I made the analogy earlier to our trade policy. It is not a bad analogy here, where I think Senator Romney is absolutely right. I think the way to get the attention of the Chinese Government on the trade issue has been to say, if you are not going to let our products in and are not going to treat our companies fairly, then we are going to have to reciprocate. What you find is suddenly they come to the table, which is what is happening right now, and our hope is that in the next short period of time, maybe the next few weeks, we will have some resolution of that. But here we have not even enforced our own laws, and so I think we have been able through our investigation over the last 8 months and through a lot of interviews to be able to obtain enough information to at least be sure that the State Department, which does have a responsibility here in this country—Ambassador Galt, you are not just focused on overseas—and the Department of Education, which does have a responsibility here, ought to at a minimum follow the U.S. law that is in place, and I think put out new guidance. The guidance is 14 years old and was put in place when there was one Confucius Institute, as I understand. As it grows, we ought to be sure that these universities, colleges, high schools, middle schools, and elementary schools know what the guidance is.

Mr. ZAIS. We agree with you, Senator. This is a concern, and we are grateful to you and your Committee for shining a light on this issue and bringing it to public attention, and we will look forward to working with you to rectify some of these issues.

Senator PORTMAN. Thank you. Let me ask you a couple of questions, if I could, with regard to the schools that have not reported. What is your intention with regard to acting on that and specifically including the Department of Justice by giving them the information?

Mr. ZAIS. In the past every institution that we have called and reminded them of the requirement to report—normally this comes to our attention because they reported significant gifts in the past and then they have failed to report a gift—they have responded appropriately and provided the requested information. We have never had an institution that has just refused to report, which is why we have never referred a case to the Justice Department.

But I think what the Department needs to do is figure out how to be a little more proactive in getting complete reports from all of the institutions.

Senator PORTMAN. With all due respect, when 70 percent of the schools, based on our investigation—maybe we are wrong, but based on our investigation, 70 percent of the schools are not complying. I guess you have to make more phone calls if you are saying that is the way to do it, to be sure that they understand it. Otherwise, a civil action may be brought by the Attorney General (AG) at the request of the Secretary of Education. If you are finding that

people are not complying even though you are providing guidance, maybe that would—as was indicated earlier with regard to the Chinese Government on reciprocity, maybe that would get people's attention.

Mr. ZAIS. Yes, Senator.

Senator PORTMAN. If you look briefly at Exhibit 2[1] on the table in front of you, it is a Dear Colleague letter dated October 4th from the Department of Education to U.S. schools. It provides detail on reporting of gifts, contracts, and relationships. Without objection, I would like to enter Exhibit 2 into the record. This is about 15 years old. Do you have a plan to issue this updated guidance to U.S. schools regarding the reporting of foreign gifts?

Mr. ZAIS. Senator, at the present time we do not have a plan, but we certainly look forward to exploring how to clarify this guidance document and working with the Committee to clarify portions of the statute that are not clear. As I mentioned in my testimony, the issue of affiliated independent foundations through which gifts and contract dollars are routed is not addressed in the statute. We want to clarify that as well.

Senator PORTMAN. We would be delighted to work with you on any clarifications on the statute, but the statute is clear enough to know that you have to report, and so you were pretty forward-leaning earlier in response to some questions on some much more difficult issues. I would think on this one you can give us a yes, which is that you will issue new guidance. The question is when, but you will issue this guidance so we do not have these schools continue to be uncertain about what their responsibilities are.

Mr. ZAIS. Absolutely.

Senator PORTMAN. That is a yes?

Mr. ZAIS. Yes, sir.

Senator PORTMAN. Great. Thank you, Dr. Zais.

Ambassador Galt, the same question to you, a yes-or-no question. You found problems with visa use at all of your site visits, huge problems, relative to, I assume, what you expected. You have gone to 2 percent of the Confucius Institutes. You found 30 visas had to be revoked at just two institutions, 30 visas. Do you have a plan to ensure proper visa use at the roughly 98 percent of Confucius Institutes that you have not visited?

Ms. GALT. Thank you, Mr. Chairman, for the question. We take our monitoring role seriously, as I said in my statement, and let me just describe we have a layered approach to monitoring. While we have only done two site visits to date of university sponsors that host Confucius Institutes, we have four more planned this year, and we also regularly engage in what we call "meet and greets," which are meetings with sponsors to share information on regulations, to inquire and to explore. Out of those we would then conduct electronic reviews of the various databases, the Student Exchange Visitor Information System (SEVIS) database operated by the Department of Homeland Security (DHS), and other databases to explore further.

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[1] Exhibit 2 referenced by Senator Portman appears in the Appendix on page 187.

We have a layered approach. Site visits are only the most intensive of our reviews. We have ongoing engagement with our sponsors across the full range——

Senator PORTMAN. Does that ongoing engagement enable you to find out whether they are being properly operated, including the use of visas?

Ms. GALT. Yes. It allows us to uncover that, and we would then engage in a site visit, as we plan to with four more university sponsors that host Confucius Institutes this year.

Senator PORTMAN. I would suggest that taking it from 2 percent to 6 percent may be a substantial increase, but not nearly adequate if it is the site visit that really is going to enable you to determine whether they are properly operating. I would hope that today you would tell us that you are going step up those efforts.

Ms. GALT. We will certainly look at that. Our investigations to date, we have encouraged—in the two site visits, both sponsors have rectified their program administration and are now in full compliance. We think that our methodology makes sense and our record is good, and we will explore further investigations.

Senator PORTMAN. Dr. Zais, one thing that I think could be done is just make schools aware of what is going on. I said in the time period of the last 8 months while we conducted this investigation, ten programs have been terminated. I cannot say that it is strictly because of the questions that we asked all 110 schools, now 100 schools, but I think it probably had an influence on them, because they, frankly, were not aware at the higher levels of university leadership what was going on and what some of the concerns are that we have raised today.

I think I heard you say earlier that you intend to provide this report to the colleges and universities that are engaged in Confucius Institutes. Is that accurate?

Mr. ZAIS. Certainly to the 96 institutions that currently house Confucius Institutes, but we will send clarifying guidance to all of the 3,700 eligible institutions of higher education.

Senator PORTMAN. OK. With regard to the K–12 schools, what is your recommendation there? Do you have the ability to also send them guidance and summaries of this report?

Mr. ZAIS. I do not know what our role in the monitoring of K–12 is for Chinese teachers. As State superintendent of education in South Carolina, we had Chinese language native speakers in some of our language immersion schools. They were exchanged. We sent teachers to China to teach English——

Senator PORTMAN. I am talking about the Confucius Institutes. Would you look into that?

Mr. ZAIS. We will check into it and see what we can do. I am not sure what we can do, Senator.

Senator PORTMAN. Yes, I am not sure either, but the proper communication I think is to provide information——

Mr. ZAIS. Yes.

Senator PORTMAN [continuing]. At this point to those institutions as well.

Mr. Douglas, you said earlier that Chinese diplomats here in the United States can speak to whoever they want, and it is true.

Mr. DOUGLAS. Right. Yes.

Senator PORTMAN. At our rotaries in Ohio, we welcome them. We welcome them at our colleges and universities. What is the situation in China with regard to U.S. diplomats and their ability to speak with whatever group they might choose?

Mr. DOUGLAS. It sometimes can work and sometimes cannot. You cannot guarantee that you will have access to anybody, and meetings can get canceled at the very last minute, as happened with Ambassador Branstad in November. It is unpredictable.

Senator PORTMAN. Let me tell you one story we heard during our investigation. It was from a U.S. school official—a dean, actually—and this dean told us that she was interviewed for several hours by Chinese police regarding her school's involvement with your ACC program. It was a harrowing experience for her. It was a difficult, emotional, tough experience.

Is this something that you believe happens often? Are you concerned about U.S. universities essentially self-censoring in China because of this kind of harassment?

Mr. DOUGLAS. That is a very good question. It is something we talk about a lot. I cannot give you an answer because I do not know that we have data that would sort of prove one way or the other. We hear anecdotally things like what you say. I cannot say that—I do not know how widespread it is. I think maybe people are not telling us. We are just a handful of us with a lot more American educators over there. But it is a very good question. I just do not think I could answer it, definitely.

Senator PORTMAN. One U.S. school told us they would never discuss the topic of Tibet or the topic of Taiwan. That is part of our investigation. This was someone who is telling us how they are experiencing the ACC program. That sounds like self-censorship, doesn't it?

Mr. DOUGLAS. Yes, it sure does.

Senator PORTMAN. Do you think that is typical?

Mr. DOUGLAS. I have heard that anecdotally, so I assume it is more than just one person who said that. A number have.

Senator PORTMAN. I appreciate all of you coming today and your testimony and work on this. I appreciate the commitments that have been made by the Department of Education and the Department of State to step up what is the first step in this, which is to provide that transparency and information that is required by law. I appreciate GAO's continued oversight of the Confucius Institutes. I know your report is not the end of you work on this, and we look forward to continuing to work with you.

We will now conclude the hearing, and I will tell you that we are always open to more information. In particular, this record will stay open for 15 days for any additional comments or questions you might have, any follow-up that you all feel is appropriate. We look forward to continuing to focus on this issue to ensure we can at a minimum have the transparency and the reciprocity that we think is required.

Thank you all. The hearing is adjourned.

[The Committee Report follows:]

[Whereupon, at 11:53 a.m., the Subcommittee was adjourned.]

# APPENDIX

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CHINA'S IMPACT ON THE U.S. EDUCATION SYSTEM
CHAIRMAN ROB PORTMAN
OPENING STATEMENT

February 28, 2019

The first Permanent Subcommittee on Investigations hearing of the 116th Congress will come to order [**gavel**].

Last night, Sen. Carper and I released a report detailing China's surprising impact on the U.S. education system. The report is the result of an eight-month investigation that focused on China's Confucius Institutes.

Based on our findings, we are here to talk about **TRANSPARENCY** and **RECIPROCITY**.

**TRANSPARENCY** in how American colleges and universities manage Confucius Institutes—which are controlled, funded, and mostly staffed by the Chinese government and aim to promote Chinese language and culture – and Chinese interests on U.S. campuses.

Lack of **RECIPROCITY** in how China does not permit U.S. State Department programming in China. Our report details how China—known for its one-sided dealings in trade and tariffs—uses similar tactics in its unfair treatment of U.S. schools and State Department efforts in China.

Let me be clear, I support cultural exchange with China and the international community more broadly. I am for engagement – but there must be reciprocity and appropriate engagement, without the Chinese government determining what is said and done on U.S. campuses. And the law must be followed – this is why transparency is so important.

**U.S. officials have expressed concerns about China's influence through its Confucius Institutes.** Recently, the FBI's Assistant Director for the Counterintelligence Division testified before the Senate Judiciary Committee that Confucius Institutes "are **not strictly a cultural institute**" and "that they're **ultimately beholden to the Chinese government**."

And the State Department has labeled Confucius Institutes, "China's most prominent soft power platform."

**Higher education groups have also expressed concern:** The American Council of Education, National Association of Scholars, and the American Association of University Professors have all recommended that U.S. schools fundamentally change how they manage Confucius Institutes—or consider shutting them down.

We know that Confucius Institutes exist as just one part of China's broader, long-term strategy, but China has invested significantly in them—giving more than $158 million to U.S. schools since 2006—over 12 years.

And China has also opened more than **500** Confucius Classrooms at U.S. K–12 schools. Expanding the Confucius Classroom program is a priority. A document obtained by the Subcommittee details a plan to expand Confucius Classrooms by seeking the "top-down policy support from the state government, legislative and educational institutions, with a particular emphasis on access to the support from school district superintendents and principals."

Over the last eight months, we interviewed U.S. school officials, teachers, and Confucius Institute instructors. We also reviewed tens of thousands of pages of contracts, emails, financial records, and other internal documents obtained from more than 100 U.S. schools with either active or closed Confucius Institutes.

Since our investigation started, more than 10 U.S. schools announced they would be discontinuing their Confucius Institutes.

**We found that Chinese funding for Confucius Institutes comes with strings attached – strings that can compromise academic freedom:**

- The Chinese government vets and approves all Chinese directors and teachers, events, research proposals, and speakers at U.S. Confucius Institutes.
- Chinese teachers at U.S. Confucius Institutes sign contracts with the Chinese government pledging they will follow Chinese law and **"conscientiously safeguard China's national interests."**
- Some schools contractually agree that both Chinese and U.S. laws will apply at the Confucius Institute on the U.S. school's campus. Think about that for a second: American universities are agreeing to comply with Chinese law on their own campuses.

**This application of Chinese law at U.S. schools results in exporting China's censorship of political debate and prevent discussion of politically sensitive topics.**

As such, numerous U.S. school officials told the Subcommittee that Confucius Institutes ***were not the place*** to discuss topics like the independence of Taiwan or the Tiananmen Square massacre.

Put simply, as one U.S. school administrator told us: **"You know what you're getting when something is funded by the Chinese government."**

Investigators from the Government Accountability Office also spoke with U.S. school officials, who acknowledged that hosting a Confucius Institute could limit events or activities critical of China—not just at the Confucius Institute, but also elsewhere on campus.

**In response to the growing popularity of Confucius Institutes, the U.S. State Department initiated its own public diplomacy program in China. The Chinese government effectively shut it down.**

Since 2010, the State Department has provided **$5.1 million** in grant funding for 29 "American Cultural Centers" or "ACCs" in China. Through the program, a U.S. school would partner with a Chinese school to set up a cultural center, which would enable Chinese students to better understand U.S. culture.

The Chinese government stifled the program from the start.

- Seven of the 29 ACCs never even opened.
- The ACCs that did open found they needed permission from their Chinese partner schools—sometimes including local Chinese Communist Party officials—to hold events.
- Eventually, State stopped funding the program altogether.

**While the State Department is mostly known for its <u>overseas</u> diplomacy efforts, it also has oversight responsibilities <u>here</u> in the United States.**

The State Department conducts Field Site Reviews to ensure that foreign nationals who come to the United States on Exchange Visitor Program visas are here for their stated reason.

While there are roughly 100 Confucius Institutes in the United States, the State Department has conducted Field Site Reviews at only **TWO**. And the State Department found serious problems at both schools:

- State revoked more than 30 visas for Chinese exchange visitors at Confucius Institutes who were only supposed to be working at the university that sponsored their visa, but were actually teaching in Confucius Classrooms at local K–12 schools.
- State discovered evidence of "fraudulent paperwork and coaching" that was a "deliberate attempt to deceive" investigators.

Moreover, State told us that it does not collect visa information specifically related to Confucius Institutes. So they do not know how many Confucius Institute teachers are here or where they are.

**Our investigation also identified failures at the Department of Education that have contributed to a lack of transparency and oversight of schools that take money from foreign governments.**

If a U.S. school receives more than $250,000 from a single foreign source in one year, it is required to report that data to the Department of Education, which in turn publishes it.

Our investigation found that **nearly 70 percent of schools** that should have reported receiving funds for a Confucius Institute from China did not.

When a school fails to report a foreign gift, the Department of Justice can force a school to comply, but only **at the request of the Secretary of Education**." The Department of Education has never referred this type of case to them. Not once.

The Department of Education has not issued any guidance on foreign gift reporting to U.S. schools since October 2004—over 14 years ago—and the same year that China opened its first U.S. Confucius Institute. It's time for new guidance.

**Our investigation found that schools in the United States—from kindergarten to college—have provided a level of access to the Chinese government that the Chinese government refuses to provide to the United States.**

**This brings us back to our two key points: TRANSPARENCY and RECIPROCITY.**

Absent full **transparency** regarding how Confucius Institutes operate and full **reciprocity** for U.S. cultural outreach efforts on Chinese campuses, Confucius Institutes should not continue in the United States.

With that, I turn to Senator Carper for his opening statement.

**Opening Statement of Senator Tom Carper**

**"China's Impact on the U.S. Education System"**

**February 28, 2019**

**Thank you, Mr. Chairman, for your attention to this issue and for the bipartisan work that went into this hearing and our report.**

**More than two years ago now, the Russian government launched an unprecedented attack on our country. Using disinformation and stolen emails, they took advantage of Americans' growing use of social media in an attempt to stir up conflict and influence the 2016 election by boosting the Trump campaign while denigrating Hillary Clinton.**

**Today, reports are already emerging that disinformation campaigns, targeting a number of the Democrats seeking to run against President Trump, have begun.**

**Given what our country has been through in recent years and what we're preparing to grapple with in 2020, it's important that we be vigilant in combatting foreign efforts to influence American public opinion regardless of where they originate.**

**Today, we'll be examining the quiet effort by the Chinese government to improve its image in Americans' minds through its Confucius Institutes.**

**China opened its first Confucius Institute outside of Asia in the United States in 2004 at the University of Maryland. It has since opened roughly 100 of its 500 institutes in our country.**

**In addition, half of the 1,000 Confucius Classrooms that it runs through its Confucius Institutes are in our primary and secondary schools.**

**Activities at the individual Confucius Institutes our staff visited and examined varied a great deal.**

**At one school, the Chinese visitors at the Confucius Institute perform research and work as teaching assistants in for-credit Mandarin classes.**

**At other schools, the Chinese visitors taught more informal, non-credit classes to both college students and members of the community. These classes focused on everything from Mandarin for business travelers to topics like Chinese cooking and art.**

**In a handful of schools, Confucius Institute staff focused almost exclusively on placing visiting language teachers in K through 12 schools in the area.**

**At all of the schools, Confucius Institute staff seemed to focus a significant amount of time on events like Chinese New Year parties.**

**As best we can determine, these institutes spread around our country do not appear to be overt efforts by the Chinese Communist Party to spread pro-China or anti-American propaganda. There's also no evidence we've uncovered that suggests that they're a center for Chinese espionage efforts or any other illegal activity.**

**That said, we nonetheless need to be mindful of where the story told by these Confucius Institutes is coming from.**

**FBI Director Wray and others have expressed concerns about the presence of Confucius Institutes in our schools because they were conceived by and are funded by a Chinese government that has a much different worldview than ours.**

**The $158 million China has spent on Confucius Institutes in the United States comes from a government that routinely stifles free speech, debate, and dissent in its own country.**

**It's a government that monitors and jails religious and ethnic minorities and has a violent history of oppression.**

**It's also a government that routinely targets us through hacking and industrial espionage and threatens Taiwan and our other close allies in Asia militarily.**

**Participants at Confucius Institute-sponsored activities won't get the full story on any of these issues. That's because, under the contracts U.S. schools have signed with the Chinese government, Chinese officials can veto programming they don't like. And the staff sent from China to run the institutes are prohibited under their individual contracts from doing anything "detrimental to national interests."**

**Despite my concerns about Confucius Institutes and China's goals for them, I welcome greater opportunities for Americans to learn more about China, visit the country, and speak Mandarin.**

**And I want Chinese citizens to visit here and learn more about us and our language and culture, as well.**

**Data reported by the Department of Education indicate that as many as 400 million people in China are attempting to learn English. And according to a 2018 Pew Research study, more than 90 percent of European primary and secondary school students are learning a foreign language. At the same time, only 20 percent of American students are working to learn another language.**

**We need to do better than that. At a time when the world is getting smaller, when our country is growing more diverse, and when so many American jobs are reliant on global trade, it's in our nation's best interest for more Americans to learn foreign languages, especially Mandarin.**

**To the extent that there's unmet demand in our country for Chinese language education, we should be filling it rather than allowing the Chinese government to fill it.**

**The report we've released recommends a number of steps that schools with Confucius Institutes can take to change their relationship with the Chinese government and assert the supremacy of free speech, free debate, and academic freedom on their campuses.**

**We also make recommendations to the U.S. Departments of Education and State to ensure that Confucius Institutes are operating within the law, and we call on the Chinese to stop blocking our efforts to engage in cultural outreach in their country.**

**As I stated earlier, it is crucial that we continue to be vigilant in combatting foreign efforts to influence public opinion in our country. But if we take any other lessons away from today's hearing, I hope it's that, in order to preserve our economic competitiveness and protect our national security, we need to make certain that our students are learning about other cultures and studying Mandarin and other key foreign languages.**

**Thank you, Mr. Chairman.**

United States Government Accountability Office

GAO

Testimony

Before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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Thursday, February 28, 2019

# CHINA

# Observations on Confucius Institutes in the United States and U.S. Universities in China

Statement of Jason Bair, Acting Director,
International Affairs and Trade

# GAO Highlights

Highlights of GAO-19-401T, a testimony before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

## Why GAO Did This Study

Numerous U.S. universities and colleges have partnered with Chinese entities to establish (1) Confucius Institutes in the United States and (2) degree-granting institutions in China. Confucius Institutes are partnerships between Chinese entities and schools in other countries, arranged and funded in part by Hanban, which seek to promote Chinese language and culture. There were 96 institutes located at colleges and universities in the United States as of January 2019. U.S. universities have also partnered with Chinese universities to establish degree-granting institutions in China approved by the Chinese government.

School officials have noted these types of partnerships provide valuable educational, cultural, and other benefits. Some researchers, government officials, and others, however, have raised concerns about them, including about the contents of written agreements and the role of the Chinese government, which, according to the Department of State, has made efforts to restrict academic freedom and impose censorship at Chinese universities and other institutions. Some have expressed concern that U.S. universities partnering with the Chinese government may face similar restrictions.

This testimony discusses funding, agreements, and operations of (1) Confucius Institutes in the United States and (2) U.S. universities in China. This testimony is based on GAO's February 2019 report on Confucius Institutes in the United States and GAO's August 2016 report on U.S. universities in China.

View GAO-19-401T. For more information, contact Jason Bair at (202) 512-6881 or bairj@gao.gov

February 28, 2019

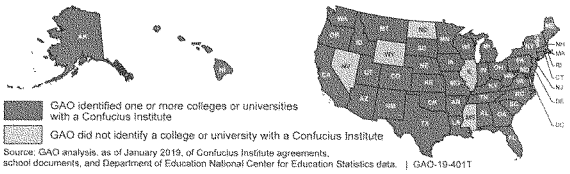
CHINA

# Observations on Confucius Institutes in the United States and U.S. Universities in China

## What GAO Found

GAO reviewed 90 agreements establishing Confucius Institutes and spoke to officials about benefits and concerns related to the institutes. Agreements between Hanban—an affiliate of the Chinese Ministry of Education—and U.S. colleges and universities generally describe similar activities, funding, and management, though institute operations vary in practice. Confucius Institutes receive funding from Hanban and U.S. schools, and do not receive direct federal funding. While 42 of 90 agreements contained language about the document being confidential, some were available online or upon request, and one-third of the 90 agreements explicitly addressed how U.S. school policies apply to the institutes. Officials GAO interviewed at 10 case study schools noted U.S. school policies apply to institutes at their schools. GAO also interviewed some researchers and others who expressed concern that the presence of Confucius Institutes could constrain campus activities and classroom content. For example, several suggested schools with institutes might avoid hosting events on topics that could include criticism of China, such as Taiwan or Tibet, so as to not offend Chinese partners. School officials offered examples to illustrate that these concerns did not apply to their institute, noting institutes had sponsored events on such topics. Nonetheless, school officials and others suggested ways schools could improve institute management, such as renegotiating agreements to clarify U.S. schools' authority and making agreements publicly available.

**Colleges and Universities across the United States Have Confucius Institutes on Campus**




Source: GAO analysis, as of January 2019, of Confucius Institute agreements, school documents, and Department of Education National Center for Education Statistics data. | GAO-19-401T

In August 2016, GAO reported that U.S. universities that have partnered with Chinese universities to establish degree-granting institutions in China emphasize academic freedom, but face internet censorship and other challenges. The 12 U.S. universities GAO reviewed generally reported receiving support for their institutions in China from Chinese government entities and universities, and 5 reported receiving U.S. government funding, mostly federal financial aid to U.S. students. Universities' agreements with Chinese partners or other policies GAO reviewed generally included language protecting academic freedom or indicating their institution in China would adhere to U.S. standards. University members generally indicated that they experienced academic freedom, but also stated that internet censorship, self-censorship, and other factors presented constraints. At several universities that lacked uncensored internet access, faculty and students noted that, as a result, they faced challenges teaching, conducting research, and completing coursework at that time.

February 28, 2019

Chairman Portman, Ranking Member Carper, and Members of the Subcommittee:

I am pleased to be here today to discuss GAO's work on U.S-Chinese higher education partnerships, including Confucius Institutes at U.S. colleges and universities and U.S. universities that have partnered with Chinese universities to establish degree-granting institutions in China. These types of U.S.-Chinese higher education partnerships have been the subject of public debate and discussion in recent years. Some have noted that these partnerships can provide valuable educational and cultural resources, such as Chinese language training that may otherwise not be available, while also enhancing research opportunities. Others have raised various concerns, such as about the contents and confidentiality of written agreements between U.S. universities and Chinese partners, and about the role or influence of Hanban, an affiliate of the Chinese Government's Ministry of Education, in these partnerships. As the Department of State has reported, the Chinese government has engaged in activities within China to restrict academic freedom and impose censorship at Chinese universities. China has increased efforts to monitor internet usage and control internet content, and has taken measures to restrict freedoms of speech, religion, and assembly, according to the Department of State. Some have expressed concern that U.S. universities partnering with the Chinese government may face such restrictions.

My testimony summarizes the findings from our February 2019 report on Confucius Institutes in the United States, and our August 2016 report on U.S. universities in China.[1] Accordingly, this testimony discusses (1) funding, agreements, and operations of Confucius Institutes in the United States and (2) funding, agreements, and experiences of students and faculty at U.S. universities in China.

To conduct the work for our review of Confucius Institutes in the United States, we reviewed 90 agreements signed between U.S. schools and

[1]See GAO, *China: Agreements Establishing Confucius Institutes at U.S. Universities Are Similar, but Institute Operations Vary*, GAO-19-278 (Washington, D.C.: February 13, 2019); and GAO, *China: U.S. Universities in China Emphasize Academic Freedom but Face Internet Censorship and Other Challenges*, GAO-16-757 (Washington, D.C.: August 29, 2016).

Hanban to identify how these documents address issues such as funding, activities, and management. We also interviewed stakeholders, including school officials, researchers, and others to gather perspectives on the institutes. Stakeholders interviewed included school administrators, Confucius Institute directors, and faculty from a non-generalizable sample of 10 case study schools; researchers and representatives from various organizations involved in higher education issues; officials at several schools that closed or ultimately declined to establish a Confucius Institute; and officials from the Departments of Defense, Education, and State. For our 2016 review of U.S. universities in China, we reviewed 12 U.S. universities that, at the time of our review, we identified as having partnered with Chinese universities to establish degree-granting institutions in China. We developed and administered a questionnaire asking for information on funding and other topics, and obtained and reviewed nine agreements between U.S. universities and their Chinese partners, as well as student and faculty handbooks and other university policies. In addition, we interviewed administrators from all 12 universities, and visited five universities in China, where we interviewed administrators and faculty; conducted discussion groups with U.S. and Chinese students; and reviewed facilities, services, and other aspects of these institutions. We also interviewed officials from the Department of Education. More information on our scope and methodology can be found in these reports.[2]

The work upon which this statement is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

Confucius Institutes are entities that seek to promote Chinese language and culture in foreign countries. Their establishment is guided by Hanban, which is headquartered in Beijing, China, and, according to various sources, is affiliated with the Chinese government's Ministry of Education. The first Confucius Institute in the United States was established in 2004, and there were approximately 525 institutes worldwide as of September

[2]GAO-19-278, GAO-16-757.

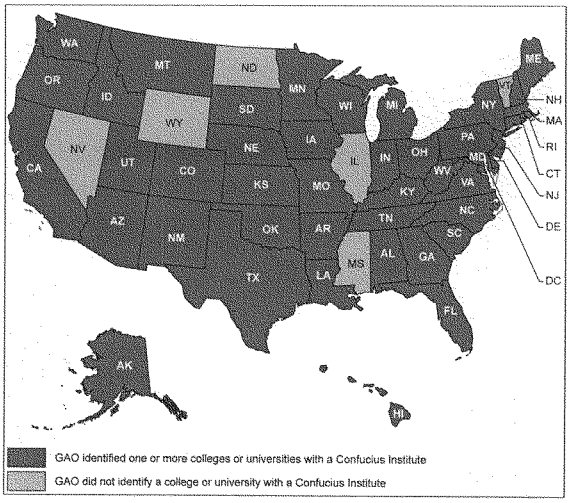
2018, according to Hanban's website.[3] Most Confucius Institutes in the United States are based at colleges and universities.[4] We identified 96 Confucius Institutes in operation at U.S. colleges and universities in 44 states and the District of Columbia as of January 2019. See our February 2019 report on Confucius Institutes for a full list of the schools and their locations.[5] Figure 1 shows U.S. states with one or more Confucius Institute on college or university campuses.

[3]This number includes Confucius Institutes established at colleges and universities and other educational institutions (such as school districts), or established independent of any educational institution, according to Hanban's website.

[4]There are several Confucius Institutes established directly in partnership with U.S. public school districts (primary and secondary education) and at least two Confucius Institutes established independently of any educational institution. Throughout this testimony, we refer to U.S. colleges and universities with Confucius Institutes as "U.S. schools."

[5]GAO-19-278.

**Figure 1: All But Six U.S. States Have at Least One Confucius Institute on College or University Campuses**




Source: GAO analysis, as of January 2019, of Confucius Institute agreements, school documents, and Department of Education National Center for Education Statistics data. | GAO-19-401T

Additionally, in recent years, some U.S. universities have partnered with Chinese universities to establish degree-granting institutions in China approved by the country's government. The Chinese government requires that U.S. universities seeking to establish such an education arrangement in China partner with a Chinese university, and establish written agreements with the Chinese university defining the academics, governance, operations, finances, and other aspects of the arrangement. At the time of our review in August 2016, the 12 institutions we reviewed ranged from fewer than 40 to more than 3,000 students. More than 90

percent of the students across the 12 institutions were Chinese, and less than 6 percent were U.S. citizens.[5]

## Confucius Institute Arrangements Vary Across Universities, and Stakeholders Have Identified Related Benefits, Concerns, and Suggestions for Improvement

### Confucius Institute Management, Operations, and Agreements Vary by School

#### Management

In February 2019, we reported that Confucius Institutes in the United States that we reviewed were established as a partnership between a U.S. school and a Chinese college or university, funded and arranged in part by Hanban. Management of the institutes varies by school.[7] Some Confucius Institutes at U.S. schools are part of an academic department or an administrative office, while others report directly to the school president or other school leadership. Confucius Institute personnel generally consist of a Confucius Institute director or directors, Confucius Institute teachers, and a board of directors. At the 10 case study schools that were part of our review, the Confucius Institute director was a U.S. school employee—either a school administrator, faculty member, or professional hired to manage the Confucius Institute. In addition, several case study schools had a Chinese assistant director, who reported to the

[6]GAO-16-757.

[7]GAO-19-278.

Confucius Institute director from the United States, and often was an employee at the Chinese partner university.

**Funding**

We did not identify any direct federal funding being used at Confucius Institutes.[8] Confucius Institutes at U.S. schools are primarily funded by Hanban and the U.S. school, according to agreements we reviewed and school officials we interviewed. Hanban generally provides start-up funds, annual funds, Confucius Institute teachers and their salaries, and teaching materials.[9] The U.S. school hosting a Confucius Institute generally provides annual funds matching Hanban's contribution, as well as physical space and administrative support, according to the agreements we reviewed. Case study school officials indicated that U.S. schools generally provide their annual matching funds in the form of in-kind support for the campus space and personnel to staff or manage the Confucius Institute.

**Activities**

Confucius Institute activities are generally oriented towards Chinese language and culture, according to case study school officials we interviewed. Examples they cited of these activities include organizing Chinese cultural events or performances for the campus and the local community, hosting speakers, organizing and funding conferences, providing Chinese teaching or cultural resources to public schools locally or statewide, and connecting with the business community.

**Teachers, Materials, and Curriculum**

Confucius Institute teachers' roles vary by school. Some case study schools offer credit courses taught by Confucius Institute teachers, who use the U.S. school's own curriculum as taught, developed, or approved by U.S. school faculty, according to officials at those schools. At other case study schools, institute teachers, if present, taught only non-credit courses or partial credit courses, or did not teach any courses.[10] None of

[8]According to officials at the Departments of Defense, Education, and State, no federal funding from these agencies is used to support or operate Confucius Institutes at U.S. schools. In addition, no school officials at any of the 10 case study schools we interviewed reported receiving or using federal funding for their Confucius Institute. Further, none of the 90 agreements we reviewed mentioned any U.S. federal funding for the Confucius Institute.

[9]According to the agreements we reviewed, start-up funds provided by Hanban range from $50,000 to $150,000.

[10]Instead of teaching courses, they sometimes provided tutoring support to credit courses or organized extracurricular and cultural activities, such as calligraphy or paper-cutting classes.

our case study schools used Hanban-developed curriculum for credit-bearing classes, according to officials we interviewed. Officials at the case study schools stated that Hanban-provided materials (such as textbooks) are not used to support credit courses offered by the school or institute. Instead such courses use a Chinese language textbook developed in the United States.[11]

Agreements

Schools sign agreements with Hanban to establish Confucius Institutes. Almost all of the agreements are valid for 5 years, most with an automatic renewal period of another 5 years. The agreements outline institute activities, funding, and management, among other things. Thirty of the 90 agreements we reviewed referenced U.S. school policies in relation to Confucius Institute activities or operations or contained language related to U.S. school policies, procedures, and/or regulations. For example, 10 agreements contained language indicating that U.S. school policies applied to the operation of the Confucius Institute and/or its activities, and one noted that nothing in the agreement shall be construed to limit the academic freedom of faculty or academic programs at the school. See our February 2019 report on Confucius Institutes for additional examples of language about U.S. school policies' applicability to the institutes.[12]

Of the 90 agreements we reviewed, 42 contained language about the agreement being confidential or language regarding the ability of either party to the agreement to share or release the agreement or other information.[13] Some agreements are publicly available on school

[11]Some officials stated that the Chinese language textbook provided by Hanban is not appropriate for American students learning Chinese because Chinese publishers have different ideas about how much time students can commit to language study. Other officials noted that the U.S. textbook they use instead of the Hanban book includes traditional Chinese language, which is more complex than the simplified Chinese characters developed by the Chinese government.

[12]GAO-19-278.

[13]This language is similar to the language addressing confidentiality in the sample agreement template that was posted on Hanban's English-language website. The language in Hanban's sample agreement that addresses confidentiality appears in a section called "Other Terms," and states "The parties to this Agreement will treat this Agreement as confidential and will not, without prior written consent, publish, release or disclose, or permit any other party to publish, release, or disclose, any materials or information which come to the knowledge of either party as a result of this Agreement except insofar as such publication, release or disclosure is necessary to enable each party to fulfill their obligations under this Agreement."

websites, or available upon request, according to school officials.[14] According to school officials, state open records laws or the fact that some schools are public institutions means some agreements can be obtained if formally requested, while other schools have posted their agreements online in response to increased focus on Confucius Institutes or requests for the document. Some school officials explained that their Confucius Institute agreements were not posted online because their schools generally do not post every agreement or any agreements on their websites. These officials stated that their treatment of the agreements was not due to any particular secrecy surrounding them, but rather was consistent with their handling of other agreements.

## School Officials, Researchers, and Others Identified Both Benefits and Concerns, and Suggested Ways to Improve Confucius Institutes

### Perspectives on Institute Benefits

In February 2019, we reported that officials we interviewed from case study schools stated that Confucius Institutes' benefits include opportunities for schools to forge international connections and receive funding and other resources for China-related programs.[15] These officials noted that because Hanban pays the salaries of Confucius Institute teachers who teach language and assist with Chinese programs at schools, sparing the schools these costs, these schools could offer Chinese language courses even when enrollment was low. Case study school officials also stated that Confucius Institutes provide valuable resources and opportunities to increase knowledge of and exposure to China and Chinese culture within the school and in the broader community.

### Perspectives on Concerns Related to Institutes

Case study school officials, researchers, and others we interviewed also offered various perspectives on whether having Confucius Institutes on

[14]At least 11 agreements are publicly available on schools' websites, and six of these agreements contain confidentiality language.

[15]GAO-19-278.

campuses could bring about undue Chinese influence. These parties discussed the potential for or absence of Chinese interference in events and activities at the institute and on campus. They also expressed views on Confucius Institute teacher hiring, and quality of those teachers.

Several school officials, researchers, and others we interviewed expressed concerns that hosting a Confucius Institute could limit events or activities critical of China—including events at the institute and elsewhere on campus. Two officials who expressed these concerns were faculty members at one case study school who have not applied for Confucius Institute funding for a research project because they believed Hanban would not approve of the topic. In contrast, officials at multiple case study schools noted that U.S. school faculty members make all decisions regarding conference themes, guest speakers, and topics for events at their institute. Officials at some schools offered examples of events and activities their Confucius Institute had sponsored that addressed topics that could be considered critical of China. Specifically, they reported hosting a conference discussing intellectual property in relation to China and events on Tibet, territorial disputes in the South China Sea, and religion in China.

In addition, multiple researchers and others we spoke with expressed concerns with the Confucius Institute teacher selection process whereby Hanban or the Chinese partner school accepts initial applications from potential Confucius Institute teachers and proposes candidates to the U.S. school. These individuals noted that the Chinese entities could use such a process to effectively screen out candidates based on inappropriate criteria, such as political or religious affiliation. Officials we interviewed at multiple case study schools that had Confucius Institute teachers, however, expressed no concerns about the process for hiring teachers. School officials stated that they believed their school generally controlled the hiring process and were thus satisfied with it. Most officials emphasized that while institute teachers often come from the Chinese partner university, and are referred by the partner or Hanban, the U.S. school makes the final hiring selection.

Suggestions for Improvement

Case study school officials, researchers, and others also suggested ways to improve the institutes, including changing the language in agreements governing Confucius Institutes and policies for sharing these agreements. These parties stated that schools should remove the confidentiality section of their agreements and make the agreements publicly available online. Several researchers and others also emphasized that making the agreements publicly available would dispel questions and concerns over their contents. Several representatives of higher education institutions told us that they believed the confidentiality language in agreements was unnecessary and schools should consider removing it from their agreements. A few case study school officials, researchers, and others we interviewed stated that schools should include stronger language in the agreements to make it clearer that the U.S. school has executive decision-making authority.

School officials and others we interviewed suggested other steps that schools could take to ensure they protect against undue Chinese influence. Several school officials stated that the schools should clearly delineate between the Confucius Institutes' programs and their own Chinese language programs, such as by locating the institute apart from these departments within the school's organizational structure. A few school officials and others noted that Confucius Institute teachers should not teach credit-bearing courses, even if those courses use curriculum developed by the school's language department. One school administrator, who stated that his school's Confucius Institute would never have a Chinese assistant director because the position suggests an excessive degree of Chinese influence, recommended that other schools remove the Chinese assistant director position from their institutes. Officials from two case study schools and others we interviewed stated that schools should organize events through the institute specifically intended to address what some might perceive as a topic sensitive to Chinese interests to demonstrate the school and institute were not subject to undue Chinese influence.

## U.S. Universities in China Emphasized Academic Freedom but Faced Internet Censorship and Other Constraints

### U.S. Universities Reported Receiving Support from Chinese Entities, with Limited U.S. Support

In August 2016,[16] we reported that the 12 U.S. universities we reviewed generally reported receiving support for their institutions in China from their Chinese partner universities and from Chinese government entities, with limited funding from U.S. government agencies and private donors.[17] Most universities reported being granted land, resources for construction of buildings, and the use of the Chinese university's campus facilities. The amount of support reported by the universities varied widely and was in some cases substantial. For example, one university reported receiving nearly 500 acres of land and a commitment from the Chinese provincial and local governments to spend about $240 million for construction and development of facilities. Five of the 12 universities reported receiving federal funding, which in most cases consisted of federal financial aid to U.S. students.

### Agreements between U.S. and Chinese Partners and Other Policies Generally Outlined Academic Freedom Protections

At the time of our review, most universities we reviewed included language in their written agreements or other policies that either embodied a protection of academic freedom or indicated that the institution in China will adhere to academic standards commensurate with those at their U.S. campus. Six universities in our review included language in either their written agreements or other university policies that indicated a protection of academic freedom, such as permitting students to pursue research in relevant topics and allowing students to

[16]GAO-16-757.

[17]The 12 U.S. universities we reviewed were Carnegie Mellon University, Duke University, Fort Hays State University, Johns Hopkins University, Kean University, Missouri State University, the New York Institute of Technology, New York University, Northwood University, Rutgers University, the University of Michigan, and the University of Pittsburgh. During our review, the University of Illinois and the University of Miami were also approved to operate cooperative education institutions in China.

freely ask questions in the classroom. For example, one university's agreement stated that all members of and visitors to the institution in China will have unlimited freedoms of expression and inquiry and will not be restricted in the selection of research, lecture, or presentation topics. Another three universities' written agreements included language indicating that the institution in China will adhere to academic standards commensurate with either the U.S. campus or the university's accrediting agency or other authoritative bodies.

Fewer agreements addressed other types of protections at the time of our review. About half of the universities GAO reviewed addressed access to information, such as providing faculty and students with access to physical or online libraries, though a few universities' agreements and policies include language protecting internet access. Written agreements and policies for about half of the universities we reviewed included language that suggested a protection of at least one of the freedoms of speech, assembly, and religion or worship, though the number of universities addressing each freedom varies. For example, regarding freedom of speech, student and faculty handbooks at a few of these universities contained language indicating that students have the ability to discuss sensitive topics. Regarding freedom of religion or worship, several of the universities included language in their policy documents indicating that religious practices will be protected.

## U.S. University Members Generally Indicated They Experienced Academic Freedom, but Internet Censorship and Other Factors Posed Challenges

The more than 130 faculty and students we interviewed from universities' institutions in China during our 2016 review generally reported that academic freedom had not been restricted. Faculty told us they did not face academic restrictions and could teach or study whatever they chose. For example, several faculty members asserted that neither they nor their colleagues would tolerate any academic restrictions, and one faculty member told us he and his colleagues intentionally introduced class discussions on politically sensitive topics to test whether this would trigger any complaints or attempted censorship. Students also generally indicated that they experienced academic freedom and could study or discuss any topic. Some students who had also studied or knew others who studied at Chinese universities contrasted their experiences at a U.S. institution in China, noting that they could have interactive dialogue with faculty, discuss sensitive topics, and freely access information at the U.S. institution but not at a Chinese university. Through interviews and responses to our questionnaire, university administrators reported that academic freedom was integral to their institutions in China. Administrators at several universities told us that academic freedom was nonnegotiable, while others noted that the same curriculum used in the United States also applied to their institution in China.

However, fewer than half of the universities we reviewed had uncensored internet access at the time of our review. We visited universities with and without uncensored internet access, and observed university members accessing search engines, newspapers, and social media sites that have been blocked in China—such as the New York Times, Google, and Facebook—at some universities but not others. At several universities that lacked uncensored internet access, students and faculty told us that, as a result, they sometimes faced challenges teaching, conducting research, and completing coursework. For example, one faculty member told us that she sometimes asked others outside of mainland China to conduct internet research for her because they can access information she could not. Several students at another university told us their ability to conduct academic research was constrained by the internet limitations.

We also reported in August 2016 that additional factors that could create obstacles to learning at U.S. universities in China, including self-censorship and constraints specific to Chinese students.

- Administrators, faculty, and students representing more than half of the universities we reviewed gave examples of self-censorship, including some cases where individuals were advised by teachers or

others in positions of authority to avoid certain topics. For example, an administrator at one university noted that he believed it was advisable, as a guest of China, to refrain from insulting China, while an administrator at another university noted that the university advised teachers to avoid discussing sensitive subjects in class.

- In addition, we found that some conditions specific to Chinese students may constrain their academic experience. For example, some noted that Chinese students may know or suspect that their Chinese classmates are government or Communist Party monitors and will report on whatever the students say. An administrator at one university told us that he assumed there were Chinese students and faculty in the institution who reported to the government or the Communist Party about the activities of other Chinese students. Faculty members at several universities told us that they understood there were Chinese students in class who intended to report on the speech of faculty or Chinese students.

Finally, we also observed that three of the 12 universities we reviewed that were approved by the Chinese Ministry of Education as having independent legal status shared characteristics that may be correlated with greater academic and other freedoms on campus.[18] We found that these three universities had campuses built specifically for the joint institution that were located relatively far away from their Chinese university partner's campus, generally controlled their own day-to-day operations, had uncensored internet access, and offered extensive campus and student life programs. In contrast, the other nine universities we reviewed did not consistently share these characteristics at the time of our review.

Chairman Portman, Ranking Member Carper, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

[18]According to a publication of the National Association of College and University Attorneys, cooperative institutions approved with independent legal status can exercise rights associated with legal persons in China, such as owning property or other assets.

## GAO Contact and Staff Acknowledgements

If you or your staff have any questions about this testimony, please contact Jason Bair, Acting Director, International Affairs and Trade at (202) 512-6881 or bairj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Joseph Carney (Assistant Director), Caitlin Mitchell (Analyst in Charge), Joyce Kang, Neil Doherty, Melissa Emrey-Arras, Meeta Engle, Elizabeth Repko, Aldo Salerno, Michael Silver, and Nicole Willems.

**Testimony of Walter Douglas**
**Deputy Assistant Secretary**
**U.S. Department of State Bureau of East Asian and Pacific Affairs**
**Senate Permanent Subcommittee on Investigations**
**February 28, 2019**

Chairman Portman, Ranking Member Carper, members of the Subcommittee, thank you for the invitation to appear before you today to discuss the State Department's public diplomacy efforts in China. American public diplomacy expands and strengthens the relationship between the people and government of the United States and citizens of the rest of the world and, in so doing, it advances our ability to achieve U.S. foreign policy goals. The Department's definition of public diplomacy generally includes both policy-related messaging as well as the facilitation of professional, cultural, and educational exchanges. Among other things, the work of public diplomacy includes activities such as implementing the Fulbright program, introducing future leaders to the United States through the International Visitor Leadership Program, or bringing together foreign opinion leaders with their American counterparts.

In China, we carry out a range of public diplomacy activities in spite of a challenging environment. Our six diplomatic posts in China—comprising the U.S. Embassy in Beijing and U.S. consulates in Chengdu, Guangzhou, Shanghai, Shenyang, and Wuhan—have a total of approximately 110 staff (including Chinese-speaking American diplomats and local Chinese employees) and a budget of $31 million in FY 2018 to support public diplomacy (approximately $8 million in public diplomacy funds from the Bureau of East Asian and Pacific Affairs and an additional $23 million from the Bureau of Educational and Cultural Exchange). This staff is the backbone of our efforts.

By and large, Chinese citizens welcome U.S. public diplomacy in the limited areas where they are allowed access to it. They are eager to participate in the programs offered by the U.S. government and to better understand the United States and its people. There is no better evidence of this than the large number of Chinese young people choosing to study in the United States. Students from China, now numbering more than 360,000, make up the largest contingent of international students at American higher education institutions. Chinese parents continue to spend their life savings to send their sons and daughters to study in the United States.

While the State Department conducts many public diplomacy programs in China, the Chinese government has increasingly impeded U.S. access to some segments of Chinese society, including in academic settings. Periodic blocking of official meetings and U.S. government-sponsored programs has been a reality in China for decades. However, in recent years, obstruction by Chinese authorities has increased in line with a more repressive academic environment in China. Typical obstacles include refusals of visits by U.S. diplomats to campuses, difficulties for American academics in obtaining visas, and greater obstruction in the program activities of U.S. government-funded American Cultural Centers, which will be discussed in greater detail later in this statement.

Official Chinese institutions, including universities and government departments, have a Foreign Affairs Office, an internal governmental office responsible for managing contact

between all non-Chinese entities and the institution. Chinese institutions that wish to interact with foreign government personnel must obtain approval from this office. As such, these Foreign Affairs Offices essentially function as gate-keepers, controlling foreigners' access to Chinese institutions.

In most countries around the world, an American ambassador would be welcomed on a university campus, usually with quite a bit of fanfare. The story is quite different in China. While Chinese professors and students might seek to engage with foreign diplomats, Chinese authorities often make such engagements difficult. To give a recent example, this past November, U.S. Ambassador to China Terry Branstad was scheduled to speak to a group of Chinese professors who had spent time in the United States as Fulbright scholars. The lecture was to take place at Nankai University in the city of Tianjin. The Foreign Affairs Office at the university initially granted permission, but later the office cancelled the event without an adequate explanation just two days before the visit. This is just one of many cases of unexplained and sudden cancellations experienced by U.S. diplomats attempting to visit universities.

University campuses are not the only places where engagements between U.S. diplomats and Chinese citizens are blocked. Earlier last year, a group of about 30 students was scheduled to visit the U.S. Consulate General in Guangzhou to attend a lecture on U.S.-China relations. Although the students originally did not have any classes scheduled the afternoon of the lecture, the school suddenly re-arranged the class schedule and directed the students not to visit the consulate.

The State Department takes notice when incidents like these take place. From January 2016 to April 2017, there were more than 150 instances involving denial of permission to meet an official, cancellation of an event with a partner organization, withdrawal of a Chinese participant from a U.S. government-funded exchange program, or intimidation of a Chinese citizen who had contact with U.S. embassy or consulate personnel. The control exerted by Chinese authorities and their pressure on organizations such as universities are at the heart of the problem. Chinese universities or scholars who would like to engage with U.S. diplomats are often prevented from doing so either by their Foreign Affairs Offices or by security authorities. When meetings do take place, we understand that Chinese authorities require participants to submit detailed reports of the conversations. We view these tactics as intimidation, which pressures our interlocutors to be cautious, refusing or limiting interaction with U.S. diplomats. As a result, U.S. diplomats' ability to engage with ordinary Chinese people is stifled. In contrast, we note that the Chinese Ambassador to the United States and Chinese diplomatic staff regularly address U.S. audiences, including on university campuses, free from obstruction by the U.S. government. We continually convey to the Chinese government that we expect reciprocal access for U.S. diplomats and programs in China and continue to examine other options that might be available.

Despite the obstacles, American diplomats continue to meet and engage with a broad cross-section of the Chinese population through a variety of programs, both in U.S. diplomatic facilities and outside them. As the Subcommittee is aware, however, the State Department's public diplomacy efforts are not limited only to direct engagement by U.S. government

personnel. The Department also supports American organizations, including universities and colleges, in forging ties with their counterparts in foreign countries.

A prime example is the American Cultural Center (ACC) grant program started in 2010 specifically for China. The ACC program provided seed funding to 29 U.S. universities to partner with Chinese universities to establish American Cultural Centers. (Note: The American Cultural Center program in China is distinct from the State Department's global network of American Spaces.) Some of the American Cultural Centers have a physical location at a Chinese university that serves as a venue for regular programs about U.S. culture, society, values, and history. Some partnerships do not have a permanent physical space and instead schedule activities at different campus venues throughout the academic year on U.S.-related topics. The U.S. Embassy in Beijing awarded grants ranging from $10,000 to a maximum of $100,000 to U.S. universities that applied for the grants as part of an open competition. As part of the grant application, American universities were asked to identify a Chinese university to partner with and to submit a letter of commitment from that university to jointly run an American Cultural Center.

The establishment of American Cultural Centers was meant to facilitate long-term relationships between U.S. and Chinese educational institutions. While some ACC efforts were stymied right at the beginning, a number of ACCs were successful in promoting understanding between Americans and Chinese. However, beginning in 2014, Chinese authorities started unduly restricting the activities of American Cultural Centers. In 2015 and 2016, severe restrictions came into effect and some of the ACCs were forced to close down. These excessive restrictions on U.S. efforts stand in stark contrast to the ability of Confucius Institutes to operate free from government obstruction in the United States.

In recent years, many of the Chinese universities hosting American Cultural Centers on their campuses told U.S. diplomats that they were not welcome to even visit the Centers. Such site visits are an essential part of the monitoring required of U.S. government-funded projects, helping U.S. officials ensure that federal funds are being properly used. However, restrictions by Chinese authorities made it so difficult for U.S. personnel to visit certain American Cultural Centers that the only channel remaining for examining ongoing activities, or the lack thereof, were written grant reports submitted by the U.S. institutions.

In 2017, the U.S. Embassy in Beijing decided to discontinue funding for the ACC program due to the difficulty in ensuring that the American Cultural Centers remained effective tools for reaching Chinese students with information about U.S. culture, society, values, and history. This decision was solidified in a recommendation by the Department's Office of Inspector General. The U.S. Embassy in Beijing officially ceased providing new funding for American Cultural Centers in 2018. There are currently three remaining U.S. universities conducting previously funded ACC-related activities that will conclude by the summer of 2019.

Between 2010 and 2018, a total of approximately $5 million in public diplomacy funding was awarded to U.S. universities as part of the American Cultural Center program. Although the program had many successes, especially in the earlier years, the increasing restrictions by Chinese authorities made the continuation of the program impossible.

The U.S. Embassy in Beijing still offers grant funding totaling $1.5 million annually to support programs that introduce Chinese audiences to U.S. culture and values and that support the development of a more robust civil society in China. Because of these grants, the Department is able to ensure that target audiences are reached through partner organizations.

American diplomats in China also continue to use American Spaces, namely American Centers at U.S. diplomatic facilities, to engage with key Chinese audiences. The Beijing American Center, for instance, sits on the diplomatic compound of the U.S. Embassy in Beijing and draws an average of nearly 2,000 Chinese citizens each month to attend talks on dozens of policy-related topics, ranging from the global opioid crisis to human rights. Similar spaces at U.S. diplomatic facilities in Chengdu, Guangzhou, and Shanghai draw in sizeable audiences on a weekly basis. Offering programs on U.S. diplomatic compounds largely eliminates the risk of unexplained last-minute cancellations. It also allows our diplomats to convey more direct messages than they could in other venues in China. While Chinese citizens are sometimes blocked from entering our premises, they continue to find ways to attend programs.

Educational and cultural exchanges are a key part of the public diplomacy portfolio in China. We find that exchange programs can have a long-term effect on an individual and his or her community. Among other exchange programs, the State Department funds and administers the Fulbright program worldwide, and in China nearly 200 American and Chinese citizens participate each year. The Fulbright program continues to be seen as prestigious by the Chinese academic community and is in part funded by the Chinese Ministry of Education. However, Chinese authorities have prevented Chinese alumni of the Fulbright program from forming a Fulbright Association, which is standard practice in other countries.

The International Visitor Leadership Program is another prestigious program that brings between 120 and 150 rising leaders from across China to the United States each year for three-week study tours in various fields. Unlike in other countries, in China, authorities force an average of 20 percent of the candidates to withdraw their participation at the last minute. Although those candidates are replaced by alternate candidates who are also highly qualified, it is yet another avenue through which the Chinese government limits who can have access to information about the United States.

When not impeded, such exchange programs engage the next generation of China's leaders and opinion makers in important sectors. We also work to reach the Chinese public on a much larger scale through a variety of media. Our diplomatic posts deliver tailored messages about U.S. policy, culture, and values through traditional media and social media. In particular, the Department maintains a robust social media presence through its six diplomatic posts in China. We recognize the importance of reaching beyond Chinese state-controlled media to connect with ordinary citizens.

There are more than one billion social media users in China, most of them accessing the Internet on mobile devices. We deliver messages from the United States government directly to Chinese citizens, largely through their smartphones. By remaining flexible, adaptable, and well-resourced in terms of funding, training, and staffing, the Department maintains a dialogue with

China's citizens about our values, policies, and priorities, largely through social media platforms that are nearly exclusively used in China such as Weibo and WeChat.

The U.S. Embassy in Beijing operates the most-followed Weibo account among foreign diplomatic missions in China, reaching more than 2.5 million followers daily. Across different social media platforms, messages from the U.S. diplomatic presence in China reach on average more than 3.5 million Chinese citizens each day. Perhaps even more noteworthy than high viewership, we have high engagement from the Chinese public online. Our social media postings receive thousands of likes, comments, and shares each day, showing the Chinese public's eagerness to engage in discussion about U.S.-related topics.

Even with this success, the U.S. Embassy and consulates experience several instances of censorship from the Chinese government each week. Forms of censorship include: disabling share and comment functions on postings; blocking links shared in postings; preventing content from being uploaded to a platform; and deleting content after it has been uploaded and viewed. In one recent example, two out of the three videos posted in commemoration of the 40th anniversary of the establishment of diplomatic relations between the United States and China featuring Henry Kissinger were blocked on the popular messaging service WeChat. This censorship stands in stark contrast to the unhindered use of social media enjoyed by the Embassy of China in Washington D.C., which launched its Facebook page over a year ago. The Embassy of China stated the goal of its presence on Facebook is "to open new flows of communication and serve as a bridge for deepening friendship between the Chinese and American people." We laud this effort and continually convey to the Chinese government that the United States expects reciprocity in social media use by the U.S. Embassy and consulates in China.

The Department welcomes the Subcommittee's inquiry into questions of reciprocity regarding U.S. and Chinese public diplomacy efforts. As noted in the PSI report, the Department's public diplomacy efforts in China have experienced excessive restrictions in various forms, whether through censorship of U.S. Embassy social media efforts or blocking American diplomats' access to Chinese university campuses. The deterioration in access to audiences and spaces is undeniable. This presents a challenge, but not an insurmountable one. The State Department continues to work towards reaching ordinary Chinese citizens, in facilitating dialogue between our peoples, and in promoting American values.

Thank you Mr. Chairman. I look forward to answering your questions and those of other members of the Subcommittee.

**Testimony of Jennifer Zimdahl Galt**
**Principal Deputy Assistant Secretary**
**U.S. Department of State Bureau of Educational and Cultural Affairs**
**Senate Permanent Subcommittee on Investigations**
**February 28, 2019**

Chairman Portman, Ranking Member Carper, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss China's interference with U.S. educational activities. I would also like to thank my colleagues who join me here today. My testimony will focus on the State Department's responsibility to regulate and monitor the participation of Chinese nationals in the Exchange Visitor Program, which is the Department's international exchange program that makes it possible each year for over 300,000 exchange visitors from nearly 200 countries and territories to travel to the United States to participate in educational and cultural exchanges.

**The Bureau of Educational and Cultural Affairs and the Exchange Visitor Program**

As mandated by the Mutual Educational and Cultural Exchange Act of 1961, also known as the Fulbright-Hays Act, the State Department's Bureau of Educational and Cultural Affairs works to advance U.S. foreign policy goals by building friendly, peaceful relations between people of the United States and the people of other countries through academic, cultural, sports, and professional exchanges. The Bureau leads public diplomacy outreach efforts for the Department of State through exchange programs that strengthen the national security of the United States, support U.S. international leadership, and provide a broad range of domestic benefits.

The Fulbright Program and the International Visitor Leadership Program are the U.S. government's flagship exchange programs funded through annual Congressional appropriations. In addition to these, the Bureau of Educational and Cultural Affairs also oversees the fee-funded programs of the Exchange Visitor Program, which are carried out by nearly 1,500 public and private entities that the State Department designates as sponsors; no appropriated funds are spent on these programs.

**The Office of Private Sector Exchange**

The Office of Private Sector Exchange in the Bureau of Educational and Cultural Affairs is charged with promulgating, implementing, and enforcing federal regulations that govern all aspects of the Exchange Visitor Program. General regulations cover the designation, monitoring, and reporting requirements of sponsors. Sponsors are obligated, for example, to report the physical whereabouts of exchange visitors through the Student and Exchange Visitor Information System (SEVIS), a national security database operated by the Department of Homeland Security. Category-specific regulations establish participant eligibility requirements, program duration limits, and category-appropriate safety precautions. Entities seeking designation status must apply separately for authority to conduct programs in one or more of the 13 private sector categories of exchange: Alien Physician, Au Pair, Camp Counselor, College and University Student (including the Student Intern subcategory), Intern, Professor, Research

Scholar, Secondary School Student, Short-Term Scholar, Specialist, Summer Work Travel, Teacher, and Trainee.

The Office of Private Sector Exchange is staffed by nearly 100 full-time employees who oversee the numerous functions necessary to ensure that sponsors properly conduct their programs. They develop federal regulations and provide interpretive policy guidance to relevant stakeholders. They designate U.S. public and private entities as Exchange Visitor Program sponsors by evaluating their initial and continued eligibility under the regulations and assist sponsors with day-to-day regulatory guidance. They respond to incidents and complaints from exchange visitors and interested third parties and monitor and evaluate sponsors' regulatory compliance and program administration. Sponsors who are unwilling or unable to improve their regulatory compliance or who display patterns of non-compliance are referred for possible sanctions, including separation from the Exchange Visitor Program.

**Chinese Participation in the Exchange Visitor Program and Confucius Institutes**

Exchange visitors from China comprise approximately 11 percent of the more than 300,000 Exchange Visitor Program participants from around the world. In 2018, there were 36,254 Chinese exchange visitors in all 13 categories; nearly 90 percent of those participated in four categories: Research Scholar (16,156), College and University Student (7,104), Summer Work Travel (5,982), and Short-Term Scholar (3,860).

Chinese exchange visitors associated with U.S. colleges and universities are one element of Chinese participation in the Exchange Visitor Program. Confucius Institutes are typically set up as collaborations between a U.S. public or private and a Chinese government-run university, facilitated by the Chinese government agency Han Ban, and hosted on the campus of the U.S. university partner. The State Department does not have a role in the creation or funding of Confucius Institutes. Our responsibility begins when a U.S. college or university that is a designated Exchange Visitor Program sponsor places an exchange visitor in a role that is related to a Confucius Institute. In 2018, there were approximately 100 Confucius Institutes in the United States, of which 92 were affiliated with Department-designated sponsors of the Exchange Visitor Program. These sponsors typically bring foreign nationals to the United States under one of five academic categories identified in the Exchange Visitor Program regulations: College and University Student (of which Student Intern is a subcategory), Professor, Research Scholar, Short-Term Scholar, and Specialist.

The State Department is responsible for regulating and monitoring sponsors' – in this case U.S. academic institutions'– compliance with all relevant Exchange Visitor Program regulations. The State Department does not have the authority to monitor the activities of Confucius Institutes more broadly as they themselves are not designated sponsors of the Exchange Visitor Program.

The Exchange Visitor Program also authorizes entities, usually schools, school districts, or State-level Departments of Education, to be sponsors in the Teacher category. Although the Department does not designate colleges or universities as sponsors in the Teacher category, the regulations would allow Confucius Institutes to work with other authorized U.S. sponsors designated in the Teacher category to place Chinese exchange visitors as teachers in K-12

schools. Seven of the current 63 Department-designated Teacher sponsors have clearly indicated ongoing cooperation with Confucius Institutes.

As part of its routine sponsor monitoring, the Office of Private Sector Exchange learned in 2012 that a number of Chinese exchange visitors participating in the Research Scholar category were inappropriately placed at K-12 schools as Chinese language teachers. Accordingly, the Department issued a Guidance Directive to potentially affected sponsors providing procedures for regularizing the program status of exchange visitors in the United States under the incorrect Exchange Visitor Program category. The Guidance Directive clarified that exchange visitors in one of the academic categories cannot serve as primary teachers in pre-schools, primary and secondary schools, school systems, summer camps, or other local community activities for K-12 students – activities that more appropriately belong in the Teacher category.

I should note that there may be a few circumstances in which exchange visitors in non-Teacher categories might be placed in K-12 schools and still be in compliance with the regulations. For example, U.S. university sponsors may place College and University Student Interns at K-12 schools under the supervision of U.S. full-time lead teachers to learn hands-on the fundamentals of day-to-day pedagogy and classroom management.

Follow-up reviews since 2012 have revealed that in some instances Chinese exchange visitors who came to the United States under one of the five academic categories continued to teach at K-12 schools. As a result, the Office of Private Sector Exchange, which has expanded its oversight capacity since 2012, has further focused its monitoring efforts of such placements.

Based on SEVIS and other data that indicated which university sponsor-based Confucius Institutes were collaborating with K-12 schools potentially in violation of the regulations regarding exchange visitor categories, the Office of Private Sector Exchange has taken further steps to improve compliance. On November 13, 2017, the Office of Private Sector Exchange wrote to the nearly 1,000 college and university sponsors reminding them of the 2012 Guidance Directive and referring them to the Teacher category regulations with respect to placing teachers in K-12 schools. We have conducted "meet and greets" with 25 academic program sponsors affiliated with Confucius Institutes and five field site or electronic site reviews. With the support of the Bureau of East Asian and Pacific Affairs, we have scheduled four field site reviews for 2019. This effort has prioritized institutions where the potential for category confusion appears to be the greatest.

Two of the previous field site reviews and two of the electronic reviews resulted in the issuance of Letters of Concern to the sponsors, documenting areas of regulatory vulnerability and encouraging the sponsors to modify their programs to achieve and maintain regulatory compliance. Where K-12 teaching associated with Confucius Institutes was problematic, these university sponsors have since ceased those activities based on our outreach to them. In two cases, the Office of Private Sector Exchange worked closely with the Bureau of Consular Affairs which revoked, where appropriate, the visas of exchange visitors who had entered the United States to teach, but not through a sponsor properly designated in the Teacher category of the Exchange Visitor Program.

The Department of State takes seriously its oversight responsibility for the Exchange Visitor Program and its obligation to monitor designated sponsors and exchange visitors for possible violations of Exchange Visitor Program regulations. We continue to refine our processes to improve regulatory compliance of all designated sponsors, including those who work with Confucius Institutes. We have increased staffing and refined monitoring protocols that evaluate regulatory compliance and participant safety on an ongoing basis for exchange visitors from all countries participating in the 13 program categories.

Mr. Chairman, I thank you for your attention to the critical issue of Chinese interference in U.S. education. The Bureau of Educational and Cultural Affairs stands ready to cooperate with your ongoing review of this matter.

I am happy to answer any questions you might have. Thank you.

STATEMENT OF

GENERAL MITCHELL M. "MICK" ZAIS

DEPUTY SECRETARY

U. S. DEPARTMENT OF EDUCATION (ED)

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 1995[1] 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, China[5] 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 China[6] 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.

*United States Senate*
*PERMANENT SUBCOMMITTEE ON INVESTIGATIONS*
*Committee on Homeland Security and Governmental Affairs*

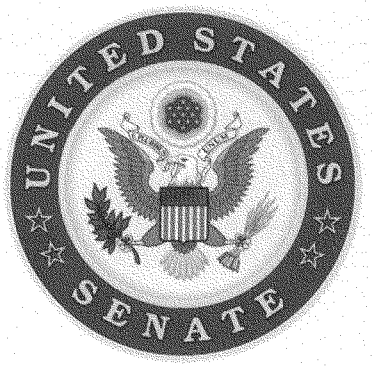
*Rob Portman, Chairman*
*Tom Carper, Ranking Member*

# CHINA'S IMPACT ON THE U.S. EDUCATION SYSTEM

## STAFF REPORT

## PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

## UNITED STATES SENATE



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## I. EXECUTIVE SUMMARY

When China sought to market itself to students around the world, it looked to its past. Confucius, the ancient Chinese philosopher, is synonymous with morality, justice, and honesty. The Chinese government capitalized on this rich legacy and began establishing Confucius Institutes on college campuses around the world in 2004, including the first in the United States at the University of Maryland. Today, there are more than 100 Confucius Institutes in the United States, the most of any country.

The Chinese government funds Confucius Institutes and provides Chinese teachers to teach language classes to students and non-student community members. In addition to Chinese language classes, Confucius Institutes host cultural events, including Chinese New Year celebrations, cooking classes, speakers, and dance and music performances. These selective events depict China as approachable and compassionate; rarely are events critical or controversial. The Chinese government also funds and provides language instructors for Confucius Classrooms, which offer classes for kindergarten through 12th grade students. Confucius Classrooms are currently in 519 elementary, middle, and high schools in the United States. Continued expansion of the program is a priority for China.

Confucius Institute funding comes with strings that can compromise academic freedom. The Chinese government approves all teachers, events, and speakers. Some U.S. schools contractually agree that both Chinese and U.S. laws will apply. The Chinese teachers sign contracts with the Chinese government pledging they will not damage the national interests of China. Such limitations attempt to export China's censorship of political debate and prevent discussion of potentially politically sensitive topics. Indeed, U.S. school officials told the Subcommittee that Confucius Institutes were not the place to discuss controversial topics like the independence of Taiwan or the Tiananmen Square massacre in 1989. As one U.S. school administrator explained to the Subcommittee, when something is "funded by the Chinese government, you know what you're getting."

Confucius Institutes exist as one part of China's broader, long-term strategy. Through Confucius Institutes, the Chinese government is attempting to change the impression in the United States and around the world that China is an economic and security threat. Confucius Institutes' soft power encourages complacency towards China's pervasive, long-term initiatives against both government critics at home and businesses and academic institutions abroad. Those long-term initiatives include its Made in China 2025 plan, a push to lead the world in certain advanced technology manufacturing. The Thousand Talents program is another state-run initiative designed to recruit Chinese researchers in the United States to return to China for significant financial gain—bringing with them the knowledge gained at U.S. universities and companies.

*Contracting with the Chinese Government.* The Chinese government runs the Confucius Institute program out of the Ministry of Education's Office of Chinese Language Council International, known as "Hanban." Each U.S. school signs a contract with Hanban establishing the terms of hosting a Confucius Institute. Contracts reviewed by the Subcommittee generally contain provisions that state both Chinese and U.S. laws apply; limit public disclosure of the contract; and terminate the contract if the U.S. school take actions that "severely harm the image or reputation" of the Confucius Institute.

The Chinese director and teachers at each Confucius Institute also sign contracts with Hanban. The contract with Hanban makes clear a Chinese director or teacher will be terminated if they "violate Chinese laws;" "engage in activities detrimental to national interests;" or "participate in illegal organizations." In fact, the contract states the Chinese director and teachers must "conscientiously safeguard national interests" and report to the Chinese Embassy within one month of arrival in the United States.

*Resources Provided by Hanban.* U.S. schools that contract with Hanban receive substantial funding and resources to establish the Confucius Institute on campus. At the outset, Hanban typically provides a U.S. school between $100,000 and $200,000 in start-up costs, around 3,000 books, and other materials. Hanban also selects and provides a Chinese director and teachers at no cost to the U.S. school. While school officials have the opportunity to interview candidates for these positions, there is little-to-no transparency into how the Chinese government selects the individuals that schools must choose from. Nor did U.S. school officials interviewed by the Subcommittee know if candidates would meet the school's hiring standards. Hanban requires director and teacher candidates to pass English proficiency tests and undergo a psychological exam to determine adaptability to living and teaching in the United States. Beyond that, U.S. schools' understanding of the selection process was limited, at best.

*Expansion to Kindergarten through 12th Grade.* China did not stop at expanding at university and college campuses. The next phase of Confucius Institutes involved funding teachers for Confucius Classrooms in K–12 grade school. There are currently 519 Confucius Classrooms operating in the United States with expansion of this program a top priority for China. In the United States, a Confucius Institute receives funding and instructors directly from Hanban and passes it to the K–12 grade school to support affiliated Confucius Classrooms.

*The Cost of Confucius Institutes.* The investment by China in U.S. Confucius Institutes is substantial. Since 2006, the Subcommittee determined China directly provided over $158 million in funding to U.S. schools for Confucius Institutes. A number of U.S. schools, however, failed to properly report this funding as required by law. The Department of Education requires all postsecondary schools to report

foreign gifts of $250,000 or more from a single source within a calendar year of receiving them. Despite that legal requirement, nearly 70 percent of U.S. schools that received more than $250,000 from Hanban failed to properly report that amount to the Department of Education.

The Department of Education last issued guidance to U.S. schools on foreign gift reporting requirements in 2004, the same year the first Confucius Institute opened in the United States. As China opened over 100 additional Confucius Institutes in the United States over the last 15 years, the Department of Education remained silent.

*Visa Failures.* The State Department is responsible for issuing visas to any Chinese director or teacher entering the United States to work at a Confucius Institute. Some U.S. schools have struggled to comply with the requirements of the Exchange Visitor Visa (or "J-1"). In 2018, the State Department revoked 32 J-1 Professor and Research Scholar visas for Confucius Institute teachers who were not conducting research, but instead were teaching at K–12 schools. The State Department also found evidence that one Confucius Institute Chinese director improperly coached the teachers to discuss their research during interviews with State Department investigators.

In 2019, the State Department plans to double the number of Confucius Institutes field reviews it completed in 2018 – from two to four.

*China's Lack of Reciprocity.* In response to the growing popularity of Confucius Institutes in the United States, the State Department initiated a public diplomacy program in China. Since 2010, the State Department has provided $5.1 million in grant funding for 29 "American Cultural Centers" or ACCs in China. Through the ACC program, a U.S. school partners with a Chinese school, much like a Confucius Institute. The U.S. school then uses the grant funds to create a space on the campus of the Chinese partner school to "enable Chinese audiences to better understand the United States, its culture, society, government, language, law, economic center, and values." ACCs are notably different from Confucius Institutes, however, as the State Department does not pay or vet instructors or directors; provide books or materials; or veto proposed events. Even so, the Chinese government stifled the establishment of the ACC program from the start.

In all, the State Department provided 29 U.S. schools with grant funds to establish ACCs with a partner Chinese schools. For some U.S schools, roadblocks to opening their ACCs appeared immediately. For example, after extensive negotiations, one Chinese school refused to open a proposed ACC, stating it didn't see a need to move forward. An official from the U.S. school seeking to open the ACC, however, believed China's Ministry of Education told the partner school not to proceed with the contract. This official wrote in an email to his colleagues, "This is

a typical Chinese political euphemism. Obviously, [the Chinese University] was instructed by [the Ministry of Education] not to proceed with our proposal." The U.S. school returned the grant funds to the State Department.

The ACCs that did open found they needed permission from their Chinese host schools to hold most cultural events. One Chinese host school refused to allow its ACC to host a play about the life of Muhammad Ali. Another denied approval for a lecture series on policy issues facing Americans. One U.S. school official who staffed an ACC told the Subcommittee that members of the local Communist Party often participated in the approval process. Another U.S. school official left the ACC after two sessions of extensive questioning by Chinese police officers regarding her involvement with the ACC and the State Department. When the U.S. school official returned to the United States, a colleague told her that Chinese police interrogation of school officials was common and that she was now just "part of the club."

In all, the State Department documented over 80 instances in the past four years where the Chinese government directly interfered with U.S. diplomacy efforts in China. Interference with State Department officials or events took a number of forms. One example involved a Chinese official telling a U.S. official an ACC no longer existed; the U.S. official easily confirmed the continued existence of the ACC through its U.S. partner school. One U.S. official was told she applied too late to attend the opening of an ACC after submitting the request a month before. In other instances, the Chinese school canceled approved events, sometimes as late as the night before.

In December 2017, the State Department Inspector General found the ACC mission was largely ineffective. In October 2018, the State Department ended all ACC program grant funding in order to conduct an internal assessment of the program. There are currently no plans for future ACC grants.

*The Need for Transparency and Reciprocity.* Schools in the United States—from kindergarten to college—have provided a level of access to the Chinese government that the Chinese government has refused to provide to the United States. That level of access can stifle academic freedom and provide students and others exposed to Confucius Institute programming with an incomplete picture of Chinese government actions and policies that run counter to U.S. interests at home and abroad. Absent full transparency regarding how Confucius Institutes operate and full reciprocity for U.S. cultural outreach efforts on college campuses in China, Confucius Institutes should not continue in the United States.

## II. FINDINGS OF FACT AND RECOMMENDATIONS

### Findings of Fact

1) **In the last 15 years, the Chinese government has opened over 100 Confucius Institutes on college and university campuses in the United States**. While there are currently more than 500 Confucius Institutes worldwide, the United States has more Confucius Institutes than any other country. Recently, ten U.S. colleges and universities have decided to close Confucius Institutes.

2) **The Chinese government also funds teachers for Confucius Classrooms in the United States, which teach Chinese language and culture in kindergarten through 12th grade schools**. There are over 1,000 Confucius Classrooms worldwide and more than 500 in the United States. Expanding the Confucius Classroom program is a priority for the Chinese government. A document obtained by the Subcommittee details a sophisticated plan to expand Confucius Classrooms by seeking the "top-down policy support from the state government, legislative and educational institutions, with a particular emphasis on access to the support from school district superintendents and principals."

3) **U.S. government officials have expressed concerns about Confucius Institutes.** FBI Director Chris Wray testified that the FBI is "watching warily" Confucius Institutes and "in certain instances have developed appropriate investigative steps." Bill Priestap, the FBI's Assistant Director for the Counterintelligence Division, testified that Confucius Institutes "are not strictly a cultural institute [and that] they're ultimately beholden to the Chinese government."

4) **The Chinese government controls nearly every aspect of Confucius Institutes at U.S. schools.** Confucius Institutes report to the Chinese government's Ministry of Education Office of Chinese Language Council International, known as "Hanban." Confucius Institutes are funded, controlled, and mostly staffed by Hanban to present Chinese-government approved programming to students at U.S. schools. Hanban approves each Confucius Institutes' annual budget and has veto authority over events and speakers.

5) **Hanban provides no information to U.S. schools on how candidates for Chinese director and teacher positions at Confucius Institutes are screened or selected in China.** U.S. Schools told the Subcommittee they did not know how Hanban selects the candidates they must choose when filling the Chinese director and teacher positions at Confucius Institutes, but were generally aware of an English proficiency test and psychological exam.

Nor did U.S. schools know if the Chinese directors and teachers would meet the U.S. schools' hiring standards.

6) **Chinese directors and teachers at Confucius Institutes pledge to protect Chinese national interests**. The Subcommittee obtained a contract between Chinese teachers and Hanban that requires Chinese instructors at U.S. schools to "conscientiously safeguard national interests" and terminates if the Chinese instructors "violate Chinese law" or "engage in activities detrimental to national interests."

7) **Some U.S. schools' contracts with Hanban include non-disclosure provisions and require adherence to both U.S. and Chinese law.** Some contracts reviewed by the Subcommittee included provisions that prevent public disclosure of the contract and a provision that both Chinese and U.S. law applies at the Confucius Institute at the U.S. school. When one U.S. school refused to include a provision requiring adherence to Chinese law, Hanban officials cancelled the entire contract.

8) **Some Hanban contracts include a clause requiring a U.S. school to pay back Hanban funds for early termination of the Confucius Institute.** This provision creates a disincentive for the U.S. school to terminate an agreement early if the school decides it no longer wants to host a Confucius Institute. The typical length of a contract between a U.S. school and Hanban is five years.

9) **U.S. school officials' impressions of Hanban's control of Confucius Institutes varied.** Some U.S. school officials, administrators, and instructors told the Subcommittee that they had concerns about the Chinese government's control and influence over Confucius Institute planning and programming. Government Accountability Office investigators interviewed several U.S. school officials who "expressed concerns that hosting a Confucius Institute could limit events or activities critical of China—including events at the Confucius Institute and elsewhere on campus." Other U.S. school administrators and American directors reported they had no concerns about academic freedom or undue Chinese influence.

10) **The State Department does not collect information on the Exchange Visa Program (or "J-1 visa") related to Confucius Institutes or Hanban.** The State Department told the Subcommittee that when a Chinese national applies for a J-1 visa, the Department does not record if that individual is associated with a Confucius Institute. As such, the State Department does not know the number of Chinese nationals in the United States associated with the Confucius Institute program. This gap affects the State Department's ability to effectively ensure proper visa use.

11) **Since 2017, the State Department issued four Letters of Concern to U.S. schools for inappropriately using J-1 visas related to Confucius Institutes.** The State Department revoked 32 visas for Confucius Institute exchange visitors following reviews at two of the schools that received letters. At both of these schools, Chinese nationals asserted they were in the United States conducting research when they were actually teaching at K–12 schools. When State Department officials interviewed officials and staff at one school, they found evidence of efforts to deceive them and determined the Confucius Institute's Chinese co-director "conducted rehearsal interviews with the exchange visitors to practice discussing their research topics in advance of [State's] review."

12) **The State Department conducted two field site reviews of Confucius Institutes in 2018 in response to visa violations discovered during a field site review.** The State Department also issued a reminder to U.S. school sponsors to review guidance on the proper use of J-1 visas for Confucius Institutes. The State Department plans to conduct four field site reviews in 2019.

13) **Since 2006, Hanban has provided more than $158 million to more than 100 U.S. schools for Confucius Institutes.** Those U.S. schools provided the Subcommittee with financial data detailing all payments received from Hanban. Hanban states it spent more than $2 billion on Confucius Institutes worldwide from 2008 to 2016; starting in 2017, it no longer reports spending on the program.

14) **U.S. schools failed to comply with statutory requirements to report foreign gifts to the Department of Education.** Current law requires all post-secondary schools to biannually report funding provided by a foreign entity valued at more than $250,000. Nearly seventy percent of U.S. schools with a Confucius Institute that received more than $250,000 in one year failed to properly report that information to the Department of Education.

15) **The Department of Education does not conduct regular oversight of U.S. schools' compliance with required foreign gift reporting.** The Department of Education maintains a database detailing the reporting of foreign gifts provided to U.S. schools, but relies solely on the U.S. schools to self-report gifts.

16) **The Department of Education has failed to update U.S. school reporting requirements.** The Department of Education has not issued guidance on foreign gift reporting by post-secondary schools since 2004. As a result, U.S. schools told the Subcommittee the reporting requirements were

unclear and confusing. They also said the Department of Education website used to receive gift reports was dated and difficult to use.

17) **The State Department created the American Cultural Center ("ACC") program in 2010 to partner U.S. schools with a Chinese school.** The State Department awarded $5.1 million in grant funds through the program for U.S. schools to create a space on the campus of a Chinese partner school. The ACC would host events and lectures to promote American culture.

18) **The Chinese government fails to provide appropriate reciprocity for U.S. officials and educators in China.** The State Department has documented at least 80 examples of Chinese interference with American public diplomacy efforts from January 2016 to July 2018. Chinese officials routinely cancelled events at ACCs that involved U.S. embassy officials. In other instances, the host Chinese school would not allow State Department officials to attend events at the ACC, even when they applied for admission weeks in advance.

19) **The State Department Inspector General found that the American Cultural Center Program was "largely ineffective" in its mission due to Chinese interference.** The State Department responded that "[t]he Embassy agrees that there are concerns related to the stability of specific Centers due to active interference by the Chinese government as well as limitations in visiting individual centers."

20) **The Chinese government prevented at least seven American Cultural Centers from ever opening.** The U.S. schools cited "politics" and having to secure the permission of either the Chinese Communist Party or local provincial government as reasons for failing to open an American Cultural Center.

21) **One U.S. school official told the Subcommittee that Chinese police officials detained and questioned her about her involvement with the American Cultural Center program.** She further explained that when she later told a colleague about the questioning, her colleague was not surprised and told her the Chinese police routinely question Americans in this manner. The colleague concluded that she was now "part of the club."

22) **U.S. schools operating in China may self-censor events and programming as part of the State Department's American Cultural Center program.** For example, one U.S. school told the Subcommittee that they would never even propose to hold an event on Tibet or Taiwan. That same U.S. school said they successfully hosted programs in China, but that the school did not want to "promote American culture too much."

**Recommendations**

1) **Congress should require all U.S. schools to publish any contracts with foreign governments, including all Confucius Institute contracts, online for students and faculty to review.** Those contracts should have clear and irrefutable provisions protecting academic freedom at the school and avoid provisions that would apply the law of a foreign country on a U.S. campus.

2) **U.S. schools should ensure that Hanban does not exercise line-item veto authority when approving annual Confucius Institute budgets.** U.S. schools must ensure that any foreign-government-funded activities or research do not hinder academic freedom or present one-sided, selective positions to American students. Confucius Institute events and activities should also include disclaimers about the sources of funding.

3) **U.S. schools should ensure that Hanban's vetting, screening, and interview processes are aligned with their own hiring procedures and protocols.** The process of selecting directors and teachers should be fully transparent to U.S. schools. U.S. schools should also attempt to recruit Chinese language instructors outside of Hanban's purview.

4) **Congress and state and local education officials should study the need and demand for Chinese language education programming in the United States and consider additional investments where necessary.** U.S. schools and state and local boards of education should not outsource Chinese language teaching to Hanban.

5) **The Department of Justice should determine if Confucius Institutes engage in activity to influence the U.S. government or public on behalf of foreign principals.** The Department of Justice should then assess whether any Confucius Institute or its employees should register under the Foreign Agents Registration Act ("FARA") for work on behalf of the Chinese government.

6) **The State Department should review all active Confucius Institutes and Confucius Classrooms for compliance with visa regulations, standards, and practices.** The State Department should collect foreign visa information for J-1 researchers and teachers associated with Confucius Institutes in the United States.

7) **U.S. schools must comply with the law and properly report foreign gifts to the Department of Education.** U.S. schools that failed to properly

report any foreign gifts should submit corrected and updated reporting as soon as practicable to the Department of Education.

8) **The Department of Education should update its guidance requiring U.S. schools to report any funds provided by an institution owned or controlled by a foreign source, especially a foreign government.** The Department should also update and modernize its website so U.S. schools can easily upload foreign gift information. The Department of Education and the Department of Justice should conduct oversight and pursue appropriate action against any U.S. schools that willfully fail to comply with reporting requirements.

9) **The State Department should demand reciprocal and fair treatment of its diplomats and employees in China.** This should include routine access to all U.S. taxpayer-funded sites, projects, and events. The State Department should also complete its own internal review of the effectiveness of the American Cultural Center program.

10) **The State Department should remain in close contact with grantees in foreign countries and develop a formal system to collect information about interference, harassment, or questioning by foreign authorities.** The State Department should use that information to assess both the safety of grantees working in foreign countries and the effectiveness of their programs.

11) **U.S. schools should continue to partner with Chinese universities.** Partnering with foreign universities offers students unique international learning experiences and enhance research opportunities. U.S. schools, however, should never, under any circumstances, compromise academic freedom. U.S. schools operating in China should inform students about China's internet censorship and other relevant constraints.

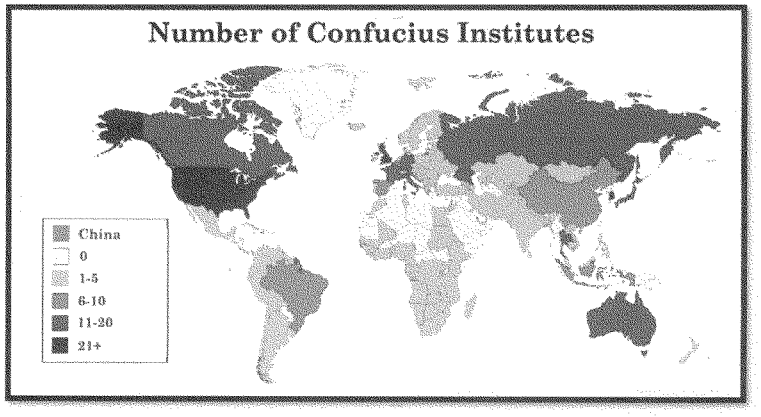
12) **U.S. schools should demand that Hanban be fully transparent about Confucius Institute hiring practices and provide reciprocity to U.S. school programs at Chinese schools.** Given the concerns regarding academic freedom and broader U.S. interests related to China, U.S. schools should be fully aware of any drawbacks associated with hosting Confucius Institutes. Absent full transparency regarding how Confucius Institutes operate and full reciprocity for U.S. cultural outreach efforts on college campuses in China, Confucius Institutes should not continue in the United States.

## III. BACKGROUND

### A. China's Confucius Institutes

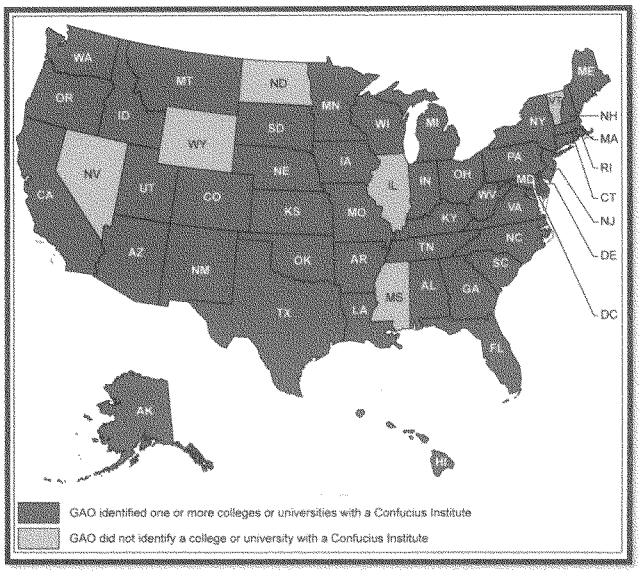
Confucius Institutes are enterprises that engage in the teaching of Chinese language and culture at universities and colleges around the world.[1] Confucius Institutes are designed, funded, and mostly staffed by the Office of Chinese Language Council International, known as Hanban.[2] The Chinese government bills them as opportunities for cultural exchange and Chinese language education—an appealing prospect for U.S. schools trying to meet demand for language instruction. In the United States, Confucius Institutes are partnerships between Hanban and U.S. colleges or universities ("U.S. schools"). Confucius Institutes generally offer Chinese language courses, cultural events, scholarships, and China-related research opportunities.

As shown here, there are approximately 525 Confucius Institutes worldwide—118 in Asia, 54 in Africa, 161 in the Americas, 173 in Europe, and 19 in Oceania.[3] With few exceptions, Confucius Institutes now have a significant presence in nearly every region of the world.




[1] *About Confucius Institute/Classroom*, HANBAN, http://english.hanban.org/node_10971.htm.
[2] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 3 (2019).
[3] *About Confucius Institute/Classroom*, HANBAN, http://english.hanban.org/node_10971.htm.

The United States is now home to more Confucius Institutes than any other country.[4] As of January 2019, as shown below and compiled by the Government Accountability Office, there are roughly 110 Confucius Institutes located in 44 of the 50 states.[5]



[6]

According to 2017 data, there are 46,200 native Chinese and indigenous teachers working at Confucius Institutes around the world, and 1.7 million students who participate in Confucius Institute programs.[7] An additional 621,000 individuals partake in Confucius Institute programming online.[8] Despite its already substantial presence, China intends to open more than 1,000 Confucius Institutes around the world by 2020.[9]

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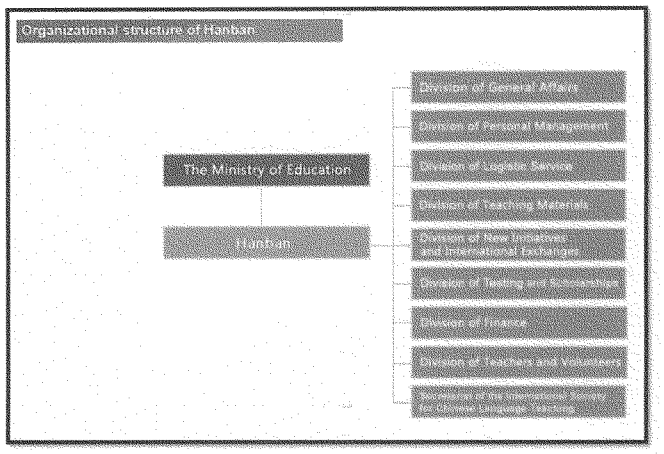
[4] *Confucius Institute Annual Development Report 2017*, HANBAN 67 (2017), http://www.hanban.org/report/2017.pdf.
[5] *About Confucius Institute/Classroom*, HANBAN, http://english.hanban.org/node_10971.htm.
[6] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 4 (2019).
[7] *Confucius Institute Annual Development Report 2017*, HANBAN 16 (2017), http://www.hanban.org/report/2017.pdf.
[8] *Id.*
[9] Anthony Warren, *Teaching Mandarin to the World*, HANBAN (Nov. 8, 2016), http://english.hanban.org/article/2016-11/08/content_663604.htm.

### 1. China's Office of Chinese Language Council International known as Hanban

Confucius Institutes are designed, funded, and mostly staffed by the Office of Chinese Language Council International—known as "Hanban."[10] While Hanban describes itself as a "non-governmental and non-profit organization," its own documents indicate that it reports directly to the Chinese government's Ministry of Education.[11] For example, as shown below in an archived screenshot of the "Organizational structure" from Hanban's website, Hanban reports directly to China's Ministry of Education.[12]




Members of twelve state ministries and commissions, including the General Office of the State Council, the Ministry of Foreign Affairs, and the State Press and Publications Administration, sit on Hanban's governing council.[13]

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[10] *Confucius institute to open in Gomel university on 20 December*, HANBAN (Dec. 12, 2017), english.hanban.org/article/2017-12/12/content_711210.htm.
[11] *About Hanban*, HANBAN, http://www.hanban.ca/hanban.php?lang=en [https://web.archive.org/web/20180225052755/http://www.hanban.ca/hanban.php?lang=en]. *Hanban*, HANBAN, http://english.hanban.org/node_7719.htm.
[12] *Id.*
[13] The full list includes the General Office of the State Council, the Ministry of Education, the Ministry of Finance, the Overseas Chinese Affaires Office of the State Council, the Ministry of Foreign Affairs, the State Development and Reform Commission, the Ministry of Commerce, the Ministry of Culture, the State Administration of Radio Film and Television (China Radio International), the State Press and Publications Administration, the State Council Information

Established in 1987, Hanban's goals, according to its website, are to (1) provide Chinese language and cultural teaching resources and services worldwide, and (2) contribute to the development of multiculturalism and global understanding by supporting Chinese language programs at educational institutes of various types and levels in other countries.[14] According to Hanban's 2017 annual report, "The Confucius Institutes worldwide have held 220,000 cultural activities with 100 million viewers."[15] The same report states that Confucius Institutes "have become a vital force for international cooperation under the 'Belt and Road' initiative."[16] China's Belt and Road initiative "aims to strengthen infrastructure, trade, and investment links between China and some 65 other countries."[17]

Hanban launched the first Confucius Institute in 2004 in Seoul, South Korea.[18] Later that year, Hanban opened the first U.S. Confucius Institute at the University of Maryland.[19] While Confucius Institutes are not Hanban's only project, they quickly became its most well-known. Hanban's other projects include the Chinese Bridge Chinese Proficiency Competition ("Chinese Bridge"), an annual international contest where students compete against each other based on their knowledge of Chinese language and culture.[20] According to Hanban, 160,000 students from 127 countries have participated in Chinese Bridge competitions.[21]

In the United States, Confucius Institutes are loosely supported by Confucius Institute U.S. Center ("CIUS") in Washington D.C.—which describes itself as a non-profit educational institution that promotes "global education, Chinese language

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Office and the State Language Work Committee. *About Hanban*, HANBAN, http://www.hanban.ca/hanban.php?lang=en [https://web.archive.org/web/20180225052755/http://www.hanban.ca/hanban.php?lang=en]. *See also* Wayne State University, *Hanban* (2019), http://www.clas.wayne.edu/ci/Hanban.

[14] *Hanban*, HANBAN, http://english.hanban.org/node_7719.htm.

[15] *Confucius Institute Annual Development Report 2017*, HANBAN 4 (2017), http://www.hanban.org/report/2017.pdf.

[16] *Id.*

[17] Caroline Freund & Michele Ruta, *Belt and Road Initiative*, WORLD BANK (Mar. 29, 2018), https://www.worldbank.org/en/topic/regional-integration/brief/belt-and-road-initiative. *Securing China's Belt and Road Initiative: Dimensions and Implications: Hearing on "China's Belt and Road Initiative: Five Years Later" Before the U.S.-China Econ. & Sec. Review Comm'n* (2018) (testimony of Dr. Joel Wuthnow, Research Fellow, Inst. for Nat'l Strategic Studies, U.S. Nat'l Def. Univ.).

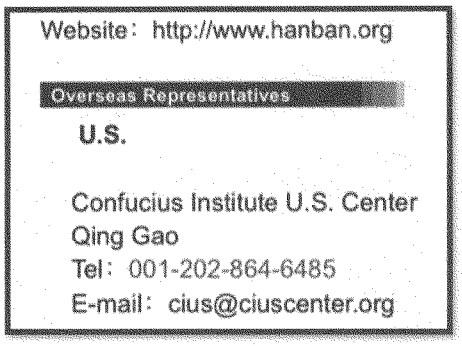
[18] D.D. Guttenplan, *Critics Worry About Influence of Chinese Institutes on U.S. Campuses*, N.Y. TIMES (Mar. 4, 2012), https://www.nytimes.com/2012/03/05/us/critics-worry-about-influence-of-chinese-institutes-on-us-campuses.html.

[19] *Frequently Asked Questions*, U. MD., https://globalmaryland.umd.edu/offices/confucius-institute-maryland/frequently-asked-questions.

[20] *About "Chinese Bridge"*, HANBAN, http://english.hanban.org/node_8080.htm.

[21] *Confucius Institute Annual Development Report 2017*, HANBAN 7 (2017), http://www.hanban.org/report/2017.pdf.

instruction, and cross-cultural understanding."[22] According to CIUS, it provides school districts that wish to develop a Chinese language curriculum with resources and support.[23] It also provides professional development opportunities to U.S. Confucius Institutes.[24] Hanban opened CIUS in 2013 during an event attended by Chinese Vice President Liu Yandong and Minister of Education Yuan Guiren.[25]




While Hanban designates CIUS as its "Overseas Representative" in the United States, as shown in the publicly available screenshot above, CIUS told the Subcommittee that "CIUS is not the headquarters for the [Confucius Institutes]."[26] In fact, in a letter to Subcommittee staff, CIUS stated it does not have authority over any of the individual Confucius Institutes in the United States:

- "CIUS is not involved in funding, managing or supervising how each college or university operates its own [Confucius Institute]."[27]

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[22] *Discovering New Horizons: 2017 Annual Report*, CONFUCIUS INST. U.S. CTR. (Jan. 2018), http://www.ciuscenter.org/wp-content/uploads/2018/01/CIUS-2017-Annual-Report.pdf.
[23] *About Us*, CONFUCIUS INST. U.S. CTR., http://www.ciuscenter.org/about-us/.
[24] *Id.*
[25] *China Inaugurates Confucius Institute U.S. Center in Washington*, EMBASSY PEOPLE'S REPUBLIC CHINA FED. DEMOCRATIC REPUBLIC NEPAL (Nov. 20, 2013), https://www.mfa.gov.cn/ce/cenp/eng/zgwj/t1101523.htm.
[26] *Contact Us*, HANBAN, http://english.hanban.org/node_7704.htm. Letter from Qing Gao, Executive Director, CONFUCIUS INSTITUTE U.S. CENTER (Sept. 12, 2018).
[27] Letter from Qing Gao, Executive Director, CONFUCIUS INSTITUTE U.S. CENTER (Sept. 12, 2018).

- "It is critical to note that CIUS has no contractual relationship with, or any control over, any individual [Confucius Institute] or any university that hosts one."[28]

- "What CIUS does not do is to provide financial support to or supervise any CIs or place any conditions on what the CIs may or may not do. CIUS is also not a central repository for all the work done by or information about individual [Confucius Institutes]."[29]

### 2. Hanban's Contracts and Implementation Agreements with U.S. Schools

Confucius Institutes are hosted by private and public universities located on U.S. school campuses.[30] Each U.S. school customarily provides its own resources, a physical space for the Confucius Institute, an American Director, and administrative support.[31] Hanban typically provides its funding, a Chinese Director, Chinese teachers, and course materials.[32] Confucius Institutes typically receive between $100,000 to $200,000 in start-up funding.[33] After that, Confucius Institutes usually receive similar amounts in annual funding from Hanban, but in some instances are given significantly more.[34]

To establish a Confucius Institute, a potential host school must first submit an application and sign an agreement with Hanban and a Chinese partner school.[35] While the management of Confucius Institutes varies from school to school, the

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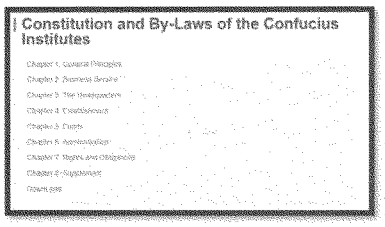
[28] *Id.*
[29] *Id.*
[30] *Confucius Institutes in the United States*, CONFUCIUS INST. U.S. CTR. (Apr. 2018), http://www.ciuscenter.org/wp-content/uploads/2018/04/Confucius-Institutes-in-the-United-States-1.pdf; James Bradshaw & Colin Freeze, *McMaster closing Confucius Institute over hiring issues*, GLOBE & MAIL (May 11, 2018), https://www.theglobeandmail.com/news/national/education/mcmaster-closing-confucius-institute-over-hiring-issues/article8372894/.
[31] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 7-8 (2019).
[32] D.D. Guttenplan, *Critics Worry About Influence of Chinese Institutes on U.S. Campuses*, N.Y. TIMES (Mar. 4, 2012), https://www.nytimes.com/2012/03/05/us/critics-worry-about-influence-of-chinese-institutes-on-us-campuses.html; James Bradshaw & Colin Freeze, *McMaster closing Confucius Institute over hiring issues*, GLOBE & MAIL (May 11, 2018), https://www.theglobeandmail.com/news/national/education/mcmaster-closing-confucius-institute-over-hiring-issues/article8372894/.
[33] Rachelle Peterson, *Outsourced to China: Confucius Institutes and Soft Power in American Higher Education*, NAT. ASSOC. SCHOLARS 68 (Apr. 2017) [hereinafter PETERSON REPORT]
[34] PETERSON REPORT at 70.
[35] *What are the features of the Confucius Institute's operation?*, HANBAN (July 2, 2010), http://english.hanban.org/article/2010-07/02/content_153909.htm.

agreement outlines the obligations of each party, the management structure, and the scope of activities to be conducted by the Confucius Institute.[36] Generally, Hanban then provides guidelines, finances, and staff for the Confucius Institute, which is managed by a board of directors consisting of members from the U.S. school and the partner Chinese school.[37] These agreements are typically valid for five years with options to renew for an additional five years.[38]

Confucius Institute operations vary dramatically between schools in the United States.[39] For example, some Confucius Institutes are part of a specific academic department or administrative office, while others report to leadership offices outside of specific departments, such as the President's office.[40] Confucius Institutes course offerings also vary greatly.[41] While nearly all Confucius Institutes offer Chinese language classes, some are for course credit and others focus primarily on non-credit classes for community members.[42] Confucius Institutes also offer events promoting Chinese culture, such as dumpling making, Tai Chi, and celebrations of the Chinese New Year and other Chinese holidays.[43]

The Chinese government primarily relies on Hanban's Constitution and the By-Laws of the Confucius Institute ("Constitution") to regulate, monitor, and control Confucius Institutes in the United States and around the world.[44]




[36] *See Agreement for Establishment of a Confucius Institute at University of California, Los Angeles (UCLA) in Collaboration with the Office of Chinese Language Council International (Hanban)*, UCLA CONFUCIUS INST. (Dec. 20, 2006), http://www.confucius.ucla.edu/sites/default/files/hanbanagreement_dec_2006_signed.pdf.
[37] PETERSON REPORT at 29.
[38] PETERSON REPORT at 45.
[39] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 6 (2019).
[40] *Id.*
[41] *Id.* at 14.
[42] *Id.* at 14, 24.
[43] *See, e.g., Classes,* CONFUCIUS INST. MASON, https://confucius.gmu.edu/classes-training/classes.
[44] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.

The Constitution lays out procedures regarding application processes, funding, and administration and forbids Confucius Institutes from "contraven[ing] ... the laws and regulations of China."[45] The Constitution also provides that Hanban can pursue legal action for any violation of the Agreement or the Constitution that "tarnishes the reputation of the Confucius Institutes."[46]

### 3. Confucius Classrooms

In addition to supporting U.S. Confucius Institutes, Hanban also supports U.S. Confucius Classrooms.[47] Confucius Classrooms are centers for Chinese culture and language that are established at both public and private K–12 schools.[48] According to Hanban, Confucius Institutes provide funding for Confucius Classrooms as well as teaching materials, resources, and in some cases, personnel.[49] Some Confucius Classroom programs are designed to advance a school's existing Chinese program with additional funding and resources, while others assist schools that wish to start a Chinese language program from scratch.[50]

Like Confucius Institutes, Hanban has expanded Confucius Classrooms over the last several years, reaching large numbers of schoolchildren worldwide. According to Hanban's own statistics, by 2017, Hanban had established 1,113 Confucius Classrooms around the world, as the chart shows below.[51]

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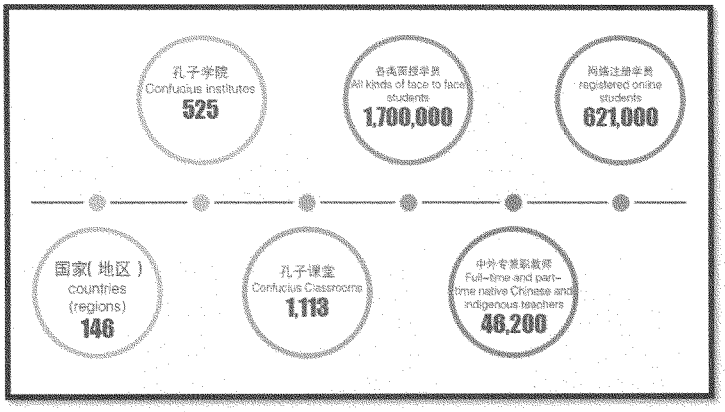
[45] *Id.*
[46] *Id.*
[47] *Confucius Institute Annual Development Report 2017*, HANBAN 3 (2017), http://www.hanban.org/report/2017.pdf.
[48] *Confucius Classrooms*, U. MD., https://globalmaryland.umd.edu/offices/confucius-institute-maryland/confucius-classrooms.
[49] *See, e.g.*, *Confucius Classroom Celebrates Chinese Language and Culture Learning in Portage*, CONFUCIUS INST. W. MICH. U. (July 20, 2012), http://www.wmuconfucius.org/content/confucius-classroom-celebrates-chinese-language-and-culture-learning-portage; *Confucius Classroom*, U. KY., http://international.uky.edu/ukci/k12/partners/confucius_classroom.
[50] *Confucius Classroom*, U. WIS. PLATTEVILLE, https://campus.uwplatt.edu/confucius-classroom.
[51] *Confucius Institute Annual Development Report 2017*, HANBAN 3 (2017), http://www.hanban.org/report/2017.pdf.




This rapid growth can be explained in part by the Confucius Classroom model. A single Confucius Institute may have multiple active Confucius Classrooms that all depend upon that Confucius Institute for assistance, funding, guidance, and mentorship.[52] According to its website, Hanban generally awards $10,000 dollars to each Confucius Classroom that is distributed via the parent Confucius Institute.[53] Schools also can receive up to $20,000 in Chinese language materials and equipment.[54] Through Confucius Classrooms, some U.S. students have attended Hanban summer camps in China and visited their Classroom's Chinese partner school.[55] U.S. school administrators have also received sponsored trips to China and educational exchanges with Chinese schools.[56]

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[52] *Confucius Classrooms*, U. MD., https://globalmaryland.umd.edu/offices/confucius-institute-maryland/confucius-classrooms.

[53] Jeffrey Gil, *Why the NSW government is reviewing its Confucius Classrooms program,* CONVERSATION (May 17, 2018), http://theconversation.com/why-the-nsw-government-is-reviewing-its-confucius-classrooms-program-96783.

[54] *Confucius Classroom Important Information*, U. CENT. ARK., https://uca.edu/confucius/frequently-asked-questions-about-confucius-classroom. *Confucius Classroom Q & A*, U. TEX. DALL., https://www.utdallas.edu/ah/confucius/docs/Confucius-Classroom.pdf.

[55] Kenneth King, *Confucius Institutes are a win-win proposition*, TELEGRAPH (Aug. 30, 2018), https://www.telegraph.co.uk/news/world/china-watch/culture/confucius-institute/; *Confucius Classroom Q & A*, U. TEX. DALL., https://www.utdallas.edu/ah/confucius/docs/Confucius-Classroom.pdf.

[56] *Confucius Classroom Important Information*, U. CENT. ARK., https://uca.edu/confucius/frequently-asked-questions-about-confucius-classroom. *Confucius Classroom Q & A*, U. TEX. DALL., https://www.utdallas.edu/ah/confucius/docs/Confucius-Classroom.pdf.

### 4. Chinese Officials' Descriptions of Confucius Institutes and Confucius Classrooms

While Hanban maintains that Confucius Institutes serve "to enhance understanding of Chinese language and culture among foreigners, develop friendly relations between China and other countries, foster the development of multiculturalism and contribute to the building of a harmonious world," some Chinese government officials have expressed different motives. For example, government officials have said that Confucius Institutes are among the tools China uses to improve its reputation in the world through "soft power."[57] And the State Department has also labeled Confucius Institutes as "China's most prominent soft-power platforms."[58] "Soft power" is characterized as "the ability to affect others to obtain the outcomes one wants through attraction rather than coercion or payment."[59] In other words, "soft power" is an "attempt to persuade people toward a compliant attitude, rather than coerce conformity."[60]

Over the past several years, some Chinese officials have publicly acknowledged and discussed motivations for Confucius Institutes. First, Li Changchun, a former member of the Chinese government, explained in a 2011 speech that, "The Confucius Institute is an appealing brand for expanding our culture abroad. It has made an important contribution toward improving our soft power. The 'Confucius' brand has a natural attractiveness. Using the excuse of teaching Chinese language, everything looks reasonable and logical."[61] Two years earlier, Li Changchun commented, "that Confucius Institutes are an important part of China's overseas propaganda set-up."[62]

Second, in 2010, former Minister of Propaganda Liu Yunshan reportedly described foreign activity goals in the *People's Daily*, the biggest newspaper group in China:

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[57] *See* Ethan Epstein, *How China Infiltrated U.S. Classrooms*, POLITICO (Jan. 16, 2018), https://www.politico.com/magazine/story/2018/01/16/how-china-infiltrated-us-classrooms-216327.
[58] CDP-2018-00005-00002.
[59] Joseph S. Nye, Jr., *Public Diplomacy and Soft Power*, 616 ANNALS AM. ACAD. POL. & SOC. SCI. 94, 94 (2008).
[60] PETERSON REPORT at 12. *See also* THOMAS LUM, CONG. RESEARCH SERVICE, COMPARING GLOBAL INFLUENCE: CHINA'S AND U.S. DIPLOMACY, FOREIGN AID, TRADE, AND INVESTMENT IN THE DEVELOPING WORLD 19 (Aug. 15, 2008), http://www.crs.gov/reports/pdf/RL34620. (According to the Congressional Research Service, Confucius Institutes "represent a new component in China's strategy to merge its economic influence with efforts to promote an understanding of its view of the world.").
[61] Ethan Epstein, *How China Infiltrated U.S. Classrooms*, POLITICO (Jan. 16, 2018), https://www.politico.com/magazine/story/2018/01/16/how-china-infiltrated-us-classrooms-216327.
[62] *Id.*

> Coordinate the efforts overseas and domestic propaganda, further create a favorable international environment for us . . . With regard to key issues that influence our sovereignty and safety, we should actively carry out international propaganda battles against issues such as Tibet, Xinjiang, Taiwan, Human Rights, and Falun Gong. Our strategy is to proactively take our culture abroad ... [w]e should do well in establishing and operating overseas cultural centers and Confucius Institutes.[63]

Finally, comments by Xu Lin, the Director General of the Confucius Institute Headquarters, indicate that he sees Confucius Institutes as a way to disseminate China's views on sensitive issues. In a 2014 interview, Xu Lin said that when Confucius Institute teachers return to China she asks them whether students have inquired about the Taiwanese relationship with China and what answer they gave in response.[64] She later stated, "Every mainland teacher we send . . . will say Taiwan belongs to China. We should have one China. No hesitation."[65]

### 5. Recent Testimony and Subsequent Confucius Institutes Closures

Over the last several years, members of Congress, U.S. government officials, and academics have raised a number of concerns about Confucius Institutes, including about academic freedom, contractual agreements, transparency, hiring practices, and self-censorship. The U.S. Senate Judiciary Committee, Senate Select Committee on Intelligence, and Foreign Relations Committees all held broad hearings that discussed China at which Senators heard from experts on U.S.-China relations, academic freedom advocates, and law enforcement officials. Additionally, members of Congress from several states issued public letters to U.S. schools with Confucius Institutes urging them to reconsider their arrangement with Hanban.[66]

In a December 2018 Senate committee hearing titled, "China's Non-Traditional Espionage Against the United States: The Threat and Potential Policy

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[63] *Id.*

[64] William Hanks, *BBC News 22 December 2014 How open is China's global Confucius Institute programme*, YOUTUBE (Dec. 22, 2014), https://www.youtube.com/watch?v=Kxi9rBjwAUI.

[65] John Sudworth, *Confucius institute: The hard side of China's soft power*, BBC (Dec. 22, 2014), https://www.bbc.com/news/world-asia-china-30567743.

[66] *See, e.g.*, *Rubio Warns of Beijing's Growing Influence, Urges Florida Schools to Terminate Confucius Institute Agreements*, MARCO RUBIO: U.S. SENATOR FOR FLORIDA (Feb. 5, 2018), https://www.rubio.senate.gov/public/index.cfm/2018/2/rubio-warns-of-beijing-s-growing-influence-urges-florida-schools-to-terminate-confucius-institute-agreements; *McCaul, Cuellar Send Letter to Texas Universities Hosting Confucius Institutes*, CONGRESSMAN MICHAEL MCCAUL (Apr. 5, 2018), https://mccaul.house.gov/media-center/press-releases/mccaul-cuellar-send-letter-to-texas-universities-hosting-confucius.

Responses," Bill Priestap, the FBI's Assistant Director for the Counterintelligence Division, stated:

> The Confucius Institutes, in my mind, are not strictly a cultural institute. The Confucius Institutes are a Chinese government-funded cultural institute. That means they're ultimately beholden to the Chinese government. And there have been instances around the world in which those institutes have, say, quashed free speech, in particular, in regards to issues involving Tibet.[67]

Mr. Priestap also stated that "there have been instances where [Confucius Institutes] appear to have quashed free speech."[68] At an earlier Senate Select Committee on Intelligence hearing, FBI Director Christopher Wray articulated concerns in his testimony. Director Wray said the FBI is "watching warily" and that Confucius Institutes are:

> [J]ust one of many tools that [the Chinese] take advantage of. We have seen some decrease recently in their own enthusiasm and commitment to that particular program, but it is something that we're watching warily and in certain instances have developed appropriate investigative steps."[69]

He then discussed higher education more broadly:

> And I think the level of naïveté on the part of the academic sector about this creates its own issues. They're exploiting the very open research and development environment that we have, which we all revere, but they're taking advantage of it. So one of the things we're trying to do is view the China threat as not just a whole-of-government threat but a whole-of-society threat on their end, and I think it's going to take a whole-of-society response by us. So it's not just the intelligence community, but it's raising awareness within our academic sector, within our private sector, as part of the defense.[70]

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[67] *China's Non-Traditional Espionage Against the United States: The Threat and Potential Policy Responses: Hearing Before the S. Comm. on Judiciary*, 115th Cong. (Dec. 12, 2018) (testimony of Bill Priestap, Assistant Dir. for the Counterintelligence Div., Fed. Bureau of Investigations).
[68] *Id.*
[69] *Open Hearing on Worldwide Threats: Hearing Before the S. Select Comm. on Intelligence*, 115th Cong. (Feb. 13, 2018) (testimony of Christopher Wray, Dir., Fed. Bureau of Investigations).
[70] *Id.*

More recently, in the 116th Congress, Robert Ashley, the Director of the Defense Intelligence Agency, addressed Confucius Institutes at a Senate Select Committee on Intelligence open hearing.[71] Director Ashley stated:

> Even last year we talked about the Confucius Institutes. That word gets out. Since 2014, thirteen universities have closed down the Confucius Institutes. US-wide, I think the number is about one hundred. But again, in my previous comment, in terms that this is a global issue. While we've closed down about thirteen in the U.S., there's been about a 23% increase globally in Asia, Europe, and other places. And there's probably about 320-plus Institutes that exist globally. So the education is getting out from a US standpoint and its trending the right way slowly, but again it is a global problem and we are as weak as the relationships with some of those partners that are subject to influence.[72]

In addition to hearing testimony, several members of Congress wrote to U.S. schools in their states expressing concern over the hosting of Confucius Institutes. For example, Senator Marco Rubio wrote in a February 2018 letter sent to all Florida universities operating Confucius Institutes that "[g]iven China's aggressive campaign to 'infiltrate' American classrooms, stifle free inquiry, and subvert free expression both at home and abroad, I respectfully urge you to consider terminating your Confucius Institute agreement."[73] Florida schools have hosted at least five Confucius Institutes in various geographical regions of the state, among the most in the nation.[74]

Hanban has also opened several Confucius Institutes in Texas.[75] In March 2018, Congressmen Michael McCaul and Henry Cuellar sent a letter to Texas schools, citing "China's subversive behavior and malicious intent to suppress our American values of free expression, speech and debate" as grounds for encouraging

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[71] *Open Hearing on Worldwide Threats: Hearing Before the S. Select Comm. on Intelligence*, 116th Cong. (Jan. 29, 2019) (testimony of Robert Ashley, Dir. Defense Intelligence Agency).
[72] *Id.*
[73] *Rubio Warns of Beijing's Growing Influence, Urges Florida Schools to Terminate Confucius Institute Agreements*, MARCO RUBIO: U.S. SENATOR FOR FLORIDA (Feb. 5, 2018), https://www.rubio.senate.gov/public/index.cfm/2018/2/rubio-warns-of-beijing-s-growing-influence-urges-florida-schools-to-terminate-confucius-institute-agreements.
[74] Rachelle Peterson, *Confucius Institutes in the US that are Closing*, NAT'L ASS'N OF SCHOLARS (Jan. 2019), https://www.nas.org/images/documents/Confucius_Institutes_that_closed_-_updated_January_4%2C_2019.pdf; Rachelle Peterson, *Confucius Institutes in the United States*, NAT'L ASS'N OF SCHOLARS (Jan. 2019), https://www.nas.org/images/documents/Confucius_Institutes_in_the_US_UPDATED_January_4%2C_2019.pdf.
[75] *Id.*

the closures of Confucius Institutes.[76] Finally, Congressman Seth Moulton urged two Massachusetts colleges to disassociate with Confucius Institutes.[77] According to a news report, he also sent letters to 38 other colleges in Massachusetts without Confucius Institutes "discouraging them from ever opening one."[78]

Iowa Senator Chuck Grassley also expressed his concern over the Department of Justice's lack of enforcement of the Foreign Agents Registration Act ("FARA") requirements with respect to Confucius Institutes. In an October 2018 letter to the Attorney General, Senator Grassley wrote:

> [T]he Confucius Institute's activities appear to mirror the opinions of the Chinese government. Together with the state funding and other indicia of agency the activities of the Institutes show that they are inherently political in nature and intended to influence U.S. policy and public opinion. This type of activity falls squarely within the scope of FARA's reporting obligations.[79]

Congress passed limited legislation sought to address some of these concerns, most notably in the John McCain 2019 National Defense Authorization Act (the "NDAA"). The NDAA, enacted in August 2018, prohibits the Department of Defense from (1) obligating funds for Chinese language instruction provided by a Confucius Institute, or (2) obligating or expending funds to support a Chinese language program at an institution of higher education that hosts a Confucius Institute.[80] The law allows the Department of Defense to waive the second set of restrictions after making certain certifications to the appropriate congressional committees.[81]

Two North American think tanks specializing in post-secondary issues recommended changes to Confucius Institutes and their operations. First, a June 2014 report by the American Association of University Professors urged universities

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[76] Letter from Rep. McCaul & Rep. Cuellar to Presidents of Tex. Colls., Univs., & Other Educ. Insts. (Mar. 23, 2018), https://mccaul.house.gov/sites/mccaul.house.gov/files/Confucius%20Institute%20Letter%20to%20Texas%20Colleges%2C%20Universities%2C%20and%20Other%20Educational%20Institutions.pdf.
[77] Laura Krantz, *Seth Moulton rips Chinese institute, wants it off college campuses*, BOSTON GLOBE (Mar. 9, 2018), https://www.bostonglobe.com/metro/2018/03/09/moulton-wants-local-colleges-cut-ties-with-chinese-institute/2l5Y9Oa1WgG3SuapqGCaNP/story.html.
[78] *Id.*
[79] Letter from Sen. Grassley to Jeff Sessions, Att'y Gen. of the United States (Sept. 19, 2018), https://www.grassley.senate.gov/sites/default/files/constituents/2018-09-19%20CEG%20to%20DOJ%20(Confucius%20Institute)%20(002).pdf.
[80] John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 § 1091 (2018).
[81] *Id.*

to end their involvement with Confucius Institutes unless (1) the contracts could be renegotiated to give universities unilateral control over all academic matters; (2) Confucius Institute teachers would be given the same academic freedom rights afforded other faculty members; and (3) and the contract is made available to all members of the school community.[82]

Second, in December 2013, the Canadian Association of University Teachers ("CAUT") called on Canadian universities to close their Confucius Institutes.[83] CAUT, which represents close to 70,000 academic professionals in Canada, passed a resolution asking Canadian universities and colleges with Confucius Institutes to shut down the institutes on their campuses, and those currently negotiating to get an institute to discontinue those discussions.[84] The CAUT Executive Director stated that "Confucius Institutes are essentially political arms of the Chinese government" and "restrict the free discussion of topics Chinese authorities deem controversial and should have no place on our campuses."[85]

Over the past five years, more than a dozen U.S. schools closed their Confucius Institutes or refused to extend their contract with Hanban. The first notable closure was the University of Chicago, which announced in September 2014 that it would not be renewing its contract, citing statements made by Xu Lin, the Hanban's Director General as the reason for the split.[86] According to a news report, Chicago officials cited the following line as problematic: "Many people have experienced the inflexibility and toughness of Xu Lin."[87] Earlier that year, more than 100 professors at the school signed a petition requesting the closure of its Confucius Institute, mentioning the school's lack of control over the hiring and training of Confucius Institute teachers.[88]

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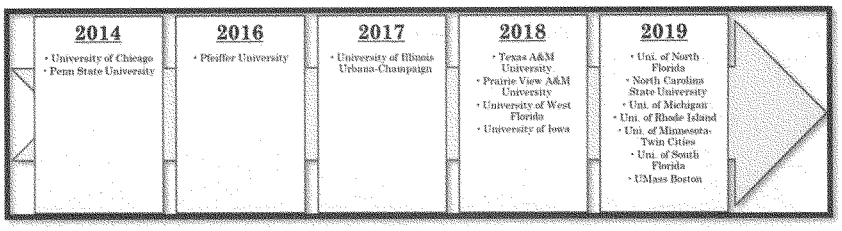
[82] *On Partnerships with Foreign Governments: The Case of Confucius Institutes*, AM. ASS'N OF UNIV. PROFESSORS (June 2014), https://www.aaup.org/file/Confucius_Institutes_0.pdf.
[83] Omid Ghoreishi, *Canada's Association of University Teachers Calls on Universities to Close Confucius Institutes*, EPOCH TIMES (Jan. 1, 2014), https://www.theepochtimes.com/canadas-association-of-university-teachers-calls-on-universities-to-close-confucius-institutes_426346.html.
[84] *Id.*
[85] *Id.*
[86] Te-Ping Chen, *Thanks, But No Thanks, University of Chicago Tells Confucius Institute*, WALL ST. J. (Sept. 26, 2014), https://blogs.wsj.com/chinarealtime/2014/09/26/thanks-but-no-thanks-university-of-chicago-tells-confucius-institute/.
[87] Elizabeth Redden, *Chicago to Close Confucius Institute*, INSIDE HIGHER ED (Sept. 26, 2014), https://www.insidehighered.com/news/2014/09/26/chicago-severs-ties-chinese-government-funded-confucius-institute.
[88] Te-Ping Chen, *Thanks, But No Thanks, University of Chicago Tells Confucius Institute*, WALL ST. J. (Sept. 26, 2014), https://blogs.wsj.com/chinarealtime/2014/09/26/thanks-but-no-thanks-university-of-chicago-tells-confucius-institute/.

Also in 2014, Pennsylvania State University decided to end its relationship with Hanban.[89] The dean of the school's College of the Liberal Arts remarked in a written statement that "several of our goals are not consistent with those of [Hanban]."[90] Later, in 2018, Texas A&M University decided to close its Institute after Congressmen Cuellar and McCaul sent their public letter urging them to close their Confucius Institutes, calling them "a threat to our nation's security."[91] Also in 2018, the University of North Florida and the University of West Florida announced the closure of their Confucius Institutes.[92] The timeline below shows all of the U.S. schools that have closed their Confucius Institutes as of the publication of this report.[93]




Finally, criticism of Confucius Institutes is not limited to the United States. Issues of academic freedom and employment discrimination have raised concerns internationally. In 2014, several news agencies reported that a European Association for Chinese Studies conference in Portugal was partially funded by Hanban.[94] The reports asserted that upon arriving at the conference, Xu Lin ordered her associates to remove the conference materials from the venue and

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[89] Douglas Belkin, *Penn State Latest School to Drop China's Confucius Institute*, WALL ST. J. (Oct. 1, 2014), https://www.wsj.com/articles/penn-state-latest-school-to-drop-chinas-confucius-institute-1412196655.

[90] *Id.*

[91] Elizabeth Redden, *Closing a Confucius Institute, at Congressmen's Request*, INSIDE HIGHER ED (Apr. 9, 2018), https://www.insidehighered.com/news/2018/04/09/texas-am-cuts-ties-confucius-institutes-response-congressmens-concerns.

[92] *2nd Florida University Cuts Ties With Confucius Institute*, U.S. NEWS & WORLD REP. (Aug. 15, 2018), https://www.usnews.com/news/best-states/florida/articles/2018-08-15/2nd-florida-university-cuts-ties-with-confucius-institute.

[93] No U.S. schools closed a Confucius Institute in 2015. Documents on file with the Subcommittee.

[94] *See Beijing's Propaganda Lessons*, WALL ST. J. (Aug. 7, 2014), https://www.wsj.com/articles/beijings-propaganda-lessons-1407430440; Elizabeth Redden, *Censorship at China Studies Meeting*, INSIDE HIGHER ED (Aug. 6, 2014), https://www.insidehighered.com/news/2014/08/06/accounts-confucius-institute-ordered-censorship-chinese-studies-conference.

returned them two days later with pages missing.[95] The missing pages included information relating to the Taiwan National Central Library as well as an advertisement for Chiang Ching-kuo, a Taiwan-based foundation that had cosponsored the conference.[96] In response, the president of the association ordered that the pages be reprinted.[97]

### B. The U.S. Department of Education

The U.S. Department of Education plays an important role in publishing information on foreign funding provided to U.S. schools. All U.S. colleges and universities that offer bachelor's degrees or higher and participate in Title IV student assistance programs must file a report with the Department of Education listing all foreign gifts received if the value from a single source exceeds $250,000 within a given calendar year.[98] A gift is defined in the statute as any giving of money or property.[99] These transparency reports must include information concerning the following three items:

1. The foreign source of such gifts or financing, such as "Giftor Name" "Country of Giftor" "Foreign gift Amount" and "Gift Type."

2. Any contracts with such a foreign entity.

3. Any ownership interests in or control over the institution by a foreign entity.[100]

As defined by federal law, a contract is any agreement for the "acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties."[101] Current federal law defines foreign sources as one of four types of entities: (1) a foreign government or agency of a foreign government; (2) a

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[95] *Beijing's Propaganda Lessons*, WALL ST. J. (Aug. 7, 2014), https://www.wsj.com/articles/beijings-propaganda-lessons-1407430440.
[96] Elizabeth Redden, *Censorship at China Studies Meeting*, INSIDE HIGHER ED (Aug. 6, 2014), https://www.insidehighered.com/news/2014/08/06/accounts-confucius-institute-ordered-censorship-chinese-studies-conference.
[97] *Beijing's Propaganda Lessons*, WALL ST. J. (Aug. 7, 2014), https://www.wsj.com/articles/beijings-propaganda-lessons-1407430440.
[98] Title IV student assistance of the Higher Education Act constitutes the legal framework for the current federal aid infrastructure for higher education in the United States. U.S. Dep't of Education, Foreign Gift and Contract Report, Federal Student Aid (2016), https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts.
[99] "Public Law 89-329: Higher Education Act of 1965." (79 Stat. 1965).
[100] U.S. Dep't of Education, Foreign Gift and Contract Report, Federal Student Aid (2016), https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts.
[101] "Public Law 89-329: Higher Education Act of 1965." (79 Stat. 1965; Date:

legal entity created solely under the laws of one or more foreign states; (3) a non-citizen or non-national of the United States; or (4) an agent acting on behalf of a foreign entity.[102]

A U.S. school is required to disclose such gifts if it: (1) has legal authorization to provide post-secondary (collegiate) education; (2) provides either (a) a bachelor's or advanced degree or (b) at least two years' worth of full credit towards a bachelor's degree; (3) is nationally accredited; and (4) currently receives any financial aid from the federal government, either directly or indirectly.[103]

The Department of Education requires biannual reporting of gift information, with a deadline of either January 31 or July 31, whichever is closer from the date of receiving the a foreign gift was received.[104] January reports cover the period from July 1 to December 31 of the previous year, and July reports are meant to cover the period from January 1 to July 31 of the same year.[105] The Department of Education publishes a spreadsheet on its website that details all foreign gifts reported by U.S. schools from January 1, 2012 to June 30, 2018.[106]

U.S. schools that fail to disclose such gifts can be subjected to civil action in Federal District Court by the Department of Justice at the request of the Secretary of Education.[107] If found guilty of willful negligence in reporting of foreign gifts, the school bears the responsibility of reimbursing the U.S. Treasury for obtaining compliance.[108]

In October 2004, the Department of Education sent a formal notification to U.S. schools detailing the requirements regarding reporting gifts from and contracts coming from foreign sources.[109] The letter outlined the procedures for reporting such figures, and the aforementioned penalties incurred should such a report fail to be produced.[110] The Department of Education warned that, "Institutions are encouraged to carefully review the full text of section 117 of the [Higher Education Act] in order to ensure their compliance with the provision."[111] The Department has

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[102] *Id.*
[103] *Id.*
[104] U.S. Dep't of Education, Dear Colleague Letter, DCL ID GEN-04-11, Reporting Gifts, Contracts, and Relationships by Institutions (Oct. 4, 2004).
[105] U.S. Dep't of Education, Foreign Gift and Contract Report, Federal Student Aid (2016), https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts.
[106] *Id.*
[107] *Id.*
[108] U.S. Dep't of Education, Dear Colleague Letter, DCL ID GEN-04-11, Reporting Gifts, Contracts, and Relationships by Institutions, Question 4 (Oct. 4, 2004).
[109] *Id.*
[110] *Id.*
[111] *Id.*

not updated this information or sent any additional reminders or guidance in the past 15 years.

### C. The U.S. State Department

The State Department, the lead U.S. foreign affairs agency, "develops strategies for its functional bureaus," which implement foreign public diplomacy programs."[112] Public diplomacy efforts are key to the State Department successfully accomplishing its mission in foreign countries.[113] According to the State Department, the mission of American public diplomacy is to:

> [S]upport the achievement of U.S. foreign policy goals and objectives, advance national interests, and enhance national security by informing and influencing foreign publics and by expanding and strengthening the relationship between the people and Government of the United States and citizens of the rest of the world.'[114]

As currently structured, the Under Secretary for Public Diplomacy and Public Affairs is responsible for implementing public diplomacy efforts at the State Department.[115] Six bureaus, offices, and one unit constitute the Public Diplomacy components:

1. Bureau of Educational and Cultural Affairs ("ECA")
2. Bureau of International Information Programs ("IIP")
3. Bureau of Public Affairs ("PA")
4. Global Engagement Center ("GEC")
5. Office of Policy, Planning and Resources ("R/PPR")
6. Expo Unit ("EXPO")[116]

ECA "designs and implements educational, professional, and cultural exchange and other programs that create and sustain the mutual understanding with other countries necessary to advancing United States foreign policy goals," including "American Spaces" and "American Cultural Centers" that provide education programs on media literacy, English language skills, and

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[112] U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-499, FOREIGN ASSISTANCE: BETTER GUIDANCE FOR STRATEGY DEVELOPMENT COULD HELP AGENCIES ALIGN THEIR EFFORTS 4 (July 2018).
[113] *See* U.S. State Dep't, *Diplomacy: The U.S. Department of State at Work* (June 2008), https://2009-2017.state.gov/r/pa/ei/rls/dos/107330.htm.
[114] U.S. State Dep't, *Under Secretary for Public Diplomacy and Public Affairs* (June 6, 2018), https://www.state.gov/r/.
[115] *Id.*
[116] *Id.*

entrepreneurship, among other topics.[117] According to the State Department, "[w]hile the Bureau of Public Affairs manages news of the day primarily for U.S. audiences and the Bureau of Education and Cultural Affairs builds long-term relationships through exchanges, IIP advances U.S. foreign policy goals directly with foreign audiences in support of U.S. embassies, consulates and missions abroad."[118]

### 1. The State Department's Public Diplomacy Efforts in China

The People's Republic of China "is the world's most populous country (1.4 billion people) and second largest economy and source of outward foreign investment."[119] According to the State Department Inspector General, the United States and China have "extensive economic relations, with areas of cooperation and disagreement."[120] Mission China, a term used referring to the U.S. embassy in Beijing and consulates general in Chengdu, Guangzhou, Shanghai, Shenyang, and Wuhan, develops goals and plans to engage with Chinese citizens.[121] Mission China's Integrated Country Strategy ("ICS") has three goals:

1. Increase U.S. prosperity through greater trade and investment and China's expanded participation in global and regional economic institutions.

2. Promote U.S. national security through greater cooperation with China within the current rules-based international system to address transnational, global, and regional challenges.

3. Promote improved responsiveness of the Chinese government to the fundamental rights and desires of its own people with implications for human rights, public health, and the environment.[122]

"Despite Chinese Government-imposed barriers to public engagement, the State Department's Public Affairs Section ("PAS") used a full range of programs and

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[117] U.S. State Dep't, *Bureau of Educational and Cultural Affairs* (June 6, 2018), https://www.state.gov/r/eca/index.htm. State Dep't Inspector General, ISP-I-18-04, *Inspection of Embassy Beijing and Constituent Posts, China* 1 (Dec. 2017). *See also* State Dep't, *Bureau of International Information Programs* (June 6, 2018), https://www.state.gov/r/iip/.
[118] *Id.*
[119] State Dep't Inspector General, ISP-I-18-04, *Inspection of Embassy Beijing and Constituent Posts, China* 1 (Dec. 2017).
[120] *Id.*
[121] *Id.* at 1-2.
[122] *Id.*

tools to advance ICS goals, with an emphasis on trade and investment, security cooperation, human rights, public health, and the environment."[123] One of those public diplomacy efforts was the "American Cultural Center" programming, which is discussed later in this report. Since 2010, PAS disbursed more than $5 million "in grants to support 29 of these centers at Chinese universities."[124] The State Department Inspector General found that the grants were "ineffective as an outreach tool."[125]

### 2. The State Department's Visa Oversight Responsibilities

The U.S. government issues thousands of visas annually to non-Americans that allow them to live in the United States for varying lengths of time. The State Department, along with the Department of Homeland Security and other federal partners, has an oversight role of sponsors involved with non-immigrant visas. According to a 2012 Government Accountability Office review, "The Department of State's visa issuance process is the first line of defense against fraudulent or unlawful entry into the United States. The State Department issues millions of visas annually for both temporary visitors (non-immigrant visas) and permanent immigrants (immigrant visas)."[126]

The Exchange Visitor Program ("EVP"), a non-immigrant visa category also known as a J-Visa, is for individuals approved to "participate in work-and study-based exchange visitor programs."[127] The EVP is administered by the ECA and was introduced under the Mutual Educational and Cultural Exchange Act of 1961 (P. L. 87-256). According to the State Department, the EVP "fosters global understanding through educational and cultural exchanges."[128]

The State Department's Office of Private Sector Exchange is responsible for maintaining the integrity of the EVP by administering nationwide designated sponsor review programs.[129] This office designates U.S. Federal, public, and private organizations to conduct educational and cultural exchange programs in 13 "different categories through which qualified foreign nationals can come to the United States to study, teach, conduct research, work, and train."[130]

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[123] *Id.* at 7.
[124] *Id.* at 9.
[125] *Id.* at *OIG Highlights.*
[126] U.S. GOV'T ACCOUNTABILITY OFF., GAO-12-888, STATE COULD ENHANCE VISA FRAUD PREVENTION BY STRATEGICALLY USING RESOURCES AND TRAINING 1 (Sept. 2012).
[127] U.S. State Dep't, *Exchange Visitor Program: Common Questions for Participants* (Jan. 9, 2019), https://j1visa.state.gov/participants/common-questions/
[128] *Id.*
[129] U.S. State Dep't, *Exchange Visitor Program: About Us* (Jan. 9, 2019), https://j1visa.state.gov/about-us/
[130] *Id.*

The State Department officers in Washington, D.C. are required to conduct regulatory examinations of designated sponsors in the program categories.[131] According to the State Department, reviews are led by officers and "may include staff from two other offices of the Department of State, Bureau of Educational and Cultural Affairs Directorate for Private Sector Exchange ("ECA/EC"): the Office of Designation and the Office of Private Sector Exchange Administration."[132] Designated sponsors may be selected for reviews for a number of reasons, "including for a routine program evaluation, follow-up on a serious exchange visitor complaint or a series of complaints, or in connection with a review of a particular Exchange Visitor Program category."[133]

Chinese nationals seeking entry to the United States to work at a Confucius Institute or in a Confucius Classroom would generally need to obtain one of five types of J-1 visas. The most common exchange visitor here is Exchange Visitor Visa–Research Scholar. Research Scholars are foreign nationals "who enter the United States for the primary purpose of conducting research, observing or consulting in connection with research projects at research institutions, corporate research facilities, museums, libraries, post-secondary accredited academic institutions, or similar types of institutions."[134] Additionally, a research scholar may teach or lecture, but only if his or her sponsor allows it.[135] Professors are foreign nationals "who enter the United State for the primary purpose of teaching, lecturing, observing or consulting at accredited post-secondary academic institutions, museums, libraries or similar types of institutions."[136] Additionally, a professor may also conduct research, but only if his or her sponsor allows it.[137]

Alternatively, those coming into the United States on a Teacher Exchange Visa come with the purpose of teaching full-time in an "accredited primary, including pre-kindergarten, or secondary ("K–12") public or private school."[138] To qualify for this visa, an applicant must either be a current teacher in their home country who meets the qualifications for teaching and has been teaching for at least

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[131] U.S. State Dep't, *Compliance Reviews and Sanction Actions* (Aug. 16, 2018), https://j1visa.state.gov/sponsors/current/regulations-compliance/compliance-reviews-and-sanction-actions/

[132] *Id.*

[133] *Id.*

[134] U.S. State Dep't, Bureau of Educational and Cultural Affairs, *Research Scholar Program*, https://j1visa.state.gov/programs/research-scholar/.

[135] A sponsor is "a legal entity designated by the Secretary of State to conduct an exchange visitor program." 22 CFR § 62.2*Id.*

[136] U.S. State Dep't, *Professors Program*, https://j1visa.state.gov/programs/professor.

[137] A sponsor is "a legal entity designated by the Secretary of State to conduct an exchange visitor program." 22 CFR § 62.2

[138] *Id.* at *Teacher*; *see also* 22 CFR § 62.24.

two years.[139] If they are not currently a teacher in their home country, they must otherwise meet the eligibility qualifications and: 1) have completed an advanced degree within the past 12 months; or (2) have two years of full-time teaching experience within the past eight years.[140] Additionally, the applicant must possess a bachelor's degree in education or in the subject he or she intends to teach, and he or she must comply with the teaching eligibility requirements of the state in which he or she will be teaching.[141]

## IV. CONFUCIUS INSTITUTES

Confucius Institutes are funded, controlled, and mostly staffed by Hanban to present Chinese government approved programming and events to students at U.S. schools. As detailed in this section, Hanban controls nearly every aspect of a Confucius Institute's operation in the United States.

China's influence starts when a U.S. school seeks to establish a contract with Hanban to obtain teachers, instructors, or advisors from a Chinese school. That contract, filled with provisions governing the relationship between the U.S. school, the Chinese-partner school, and Hanban, can include non-disclosure language that frustrates the transparency associated with academic freedom on U.S. school campuses. Hanban then provides significant funding for Confucius Institutes, dispatches vetted and approved Chinese directors and teachers to the U.S. school, and has veto authority over Confucius Institute programming. There is no other comparable arrangement with a foreign government in U.S. higher education.

The Subcommittee reviewed the agreements or contracts of fifteen U.S. schools, their Chinese school partners, and Hanban. The Subcommittee also visited with or interviewed Confucius Institute officials to learn more about the Confucius Institute's founding; how Chinese instructors and directors are selected; and how Confucius Institutes operate. This section examines those topics.

### A. Confucius Institute Formation at U.S. Schools

A Confucius Institute is generally born out of a contractual relationship between Hanban, a U.S. school, and a Chinese school.[142] The U.S. and Chinese schools typically sign a memorandum of understanding or an implementation agreement. The U.S. school then signs a separate agreement directly with Hanban. As discussed below, these contracts often cede control of events and content to Hanban, which funds Confucius Institute programming and plays a significant role

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[139] *Id.*
[140] *Id.*
[141] 22 CFR § 62.24 (d).
[142] Documents and Interview Records on file with the Subcommittee.

in hiring instructors and directors. Through its funding authority, Hanban has influence and exerts control over activities conducted at U.S. schools.

According to numerous interviews conducted by the Subcommittee, most Confucius Institute agreements require that the U.S. school provide a venue, a director—typically a U.S. school employee—and administrative support staff.[143] The Chinese partner school provides one faculty member to serve as the Chinese director and teachers to serve as Chinese language instructors.[144] The Chinese partner school allows its employees to take the leave necessary to serve at U.S. Confucius Institutes.[145]

Hanban also provides start-up funding, usually between $100,000 and $200,000, but this amount can vary considerably.[146] At many Confucius Institutes, Hanban also provides supplementary annual funding, in addition to paying the salaries of the Chinese director and instructors.[147] Finally, Hanban usually provides teaching materials and about 3,000 books for each Confucius Institute.[148]

In addition to the memorandum of understanding and implementation agreements, the relationship between the U.S. school and Hanban is also governed by the Confucius Institute Constitution which is "applicable to all Confucius Institutes worldwide."[149] According to the Constitution, and consistent with the implementation agreement, Confucius Institutes are intended to serve as "non-profit educational institutions."[150] Hanban's Constitution furthermore states that the role of the Confucius Institute is to promote Chinese language and culture while engaging in "cultural exchange between China and other countries."[151]

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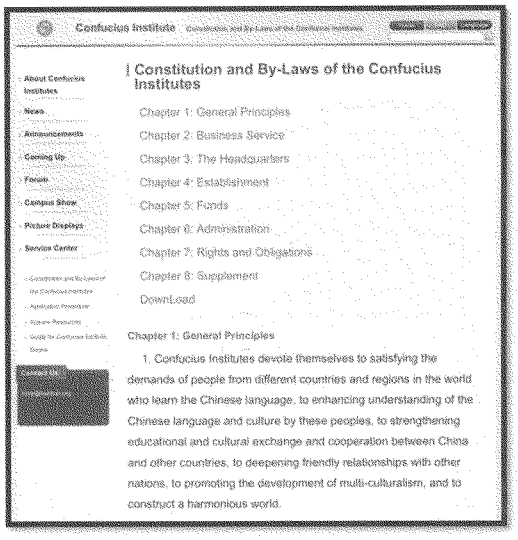
[143] Documents and Interview Records on file with the Subcommittee.
[144] Documents on file with the Subcommittee (July 23, 2018, July 17, 2018, Nov. 29, 2018).
[145] *Id.*
[146] PETERSON REPORT at 68.
[147] *Id.*
[148] Documents on file with the Subcommittee (July 17, 2018, July 26, 2018, July 27, 2018).
[149] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[150] *Id.*
[151] *Id.*




While Hanban's Constitution is the organizing document for Confucius Institutes worldwide, individual agreements establish each Confucius Institute and ultimately bind the U.S. school, the Chinese school, and Hanban together. Essentially, all agreements provide for the same general purpose and scope of activities—that is, to provide Hanban-approved Chinese language instruction, train teachers to teach Chinese in primary and secondary schools, administer the Chinese Proficiency Test ("HSK"), and to promote Chinese language and culture by, among other things, sponsoring Chinese cultural events, speakers and competitions.[152]

Although some Confucius Institute instructors or directors participate in credit-bearing courses, many reviewed by the Subcommittee offer non-credit language instruction and teacher training to non-student community members. Nine of the fifteen Confucius Institutes reviewed by the Subcommittee, had instructors or directors involved in credit-bearing courses.[153] And according to Hanban's own reporting, as of 2017, 85 percent of its Confucius Institutes around the world are involved "in the universities' credit systems."[154] Confucius Institutes

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[152] Documents on file with the Subcommittee (July 26, 2018, July 27, 2018, Oct. 29, 2018, July 17, 2018).
[153] Documents and Interview Records on file with the Subcommittee.
[154] *Confucius Institute Annual Development Report 2017*, HANBAN 16 (2017), http://www.hanban.org/report/2017.pdf.

also offer Chinese culture activities such as dumpling-making, paper-cutting, Tai Chi, and various holiday celebrations such as the Chinese New Year.[155]

Most Confucius Institutes operate as separate ventures within their respective universities. Nevertheless, some agreements provide for increased collaboration between a U.S. school and a Confucius Institute. For example, the agreement between Hanban and one U.S. school calls for the establishment of:

> [A] named Confucius Institute Directorship of Chinese Language Pedagogy, who shall oversee planning for Chinese language teaching programs at [U.S. school] and provide training courses for the Chinese language lecturers and graduates majoring in Chinese language [at the U.S. school].[156]

In addition, the agreement states that, "[t]he Confucius Institute at [the U.S. school] will develop 'Confucius Institute Research Projects' related to the study of modern China and Chinese culture," and that the Confucius Institute "will provide support for programs related to language study at [the School of Arts & Sciences]."[157]

### B. Confucius Institute Board of Directors

Hanban's typical implementation agreement details the management structure of Confucius Institutes, to include a Confucius Institute Board of Directors (the "Board").[158] Confucius Institutes generally have a Board that acts as the "supreme collective management body" and is "responsible for overall management" of the Confucius Institute.[159] According to Hanban's Constitution, the Board is "responsible for assessing and approving the Confucius Institutes' development plans, annual plans, annual reports, project implementation schemes, budget proposals, [and] final financial accounts."[160] The Board can appoint and dismiss both the American and Chinese directors.[161] When a Board is comprised of equal members from the U.S. and Chinese schools, control and direction of the

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[155] *See, e.g.*, *2018 Events*, CONFUCIUS INSTITUTE AT MASON, https://confucius.gmu.edu/events-news/2018-events; *Past Adult Events*, CONFUCIUS INSTITUTE AT MARYLAND, https://globalmaryland.umd.edu/offices/confucius-institute-maryland/past-adult-events; *Past Events*, GW CONFUCIUS INSTITUTE, https://confucius.columbian.gwu.edu/past-events.
[156] Documents on file with the Subcommittee (July 25, 2018).
[157] *Id.*
[158] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[159] Documents on file with the Subcommittee (July 23, 2018).
[160] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[161] *Id.*

Confucius Institute is shared equally. Even when the board composition favors the U.S. school by one member, Hanban—through the Chinese board members and control over important funding decisions—still wields significant influence over all Confucius Institute operations.

The Constitution itself does not require a certain number of Board members or suggest the balance between the U.S. and Chinese schools. It does, however, require that the Board "consist of members from both sides" to be determined through "consultation."[162] This arrangement, at a minimum, assures Chinese representation on the board and secures some measure of control and oversight for Hanban which already controls funding and, to a large extent, its hiring and programming.

Typically, the duties of the Board include formulating and amending the policies of the Institute; writing development plans for the Institute; decision-making on significant issues including teaching, research and management; fundraising; appointment and removal of the directors of the Institute, subject to the approval of the respective home institution of the director in question; examining and approving an annual budget proposal and final financial accounts.[163] In addition, the Constitution requires that the Board report directly to Hanban:

> The Board shall provide Hanban with copies of approved annual budget proposals and financial reports. The Directors shall provide the Board with a summary of financial accounts of Hanban funds spent and annual budget proposals for funds requested from Hanban. The Board shall provide Hanban with copies of approved annual budget proposals and financial reports.[164]

In practice, the roles and responsibilities of the Boards varied at the U.S. schools interviewed by the Subcommittee. One U.S. school told the Subcommittee that it reviewed applications for Confucius Institute instructors and directors.[165] A second U.S. school told the Subcommittee that it rarely convened the Board, but intended to have more frequent meetings in the future.[166] Finally, a third U.S. school said its Board only meets at the annual Confucius Institute Conference in China.[167]

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[162] *Id.*
[163] Documents on file with the Subcommittee (July 19, 2018, Oct. 29, 2018, July 18, 2018, Nov. 29, 2018).
[164] Documents on file with the Subcommittee (July 19, 2018, July 25, 2018).
[165] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[166] Interview Records on file with the Subcommittee (Sept. 24, 2018).
[167] Interview Records on file with the Subcommittee (Nov. 14, 2018).

### C. Hanban's Confucius Institute Contracts

Confucius Institutes are created by agreements between the U.S. school, Hanban, and the Chinese-partner school. The contracts establish Confucius Institutes and include provisions that govern the related financial arrangements, budgeting processes, and legal obligations of the parties. Hanban relies on its own templates as a starting point for negotiations with the U.S. schools.[168] Through these contracts, Hanban maintains significant leverage over the funding and curriculum of Confucius Institutes in the United States.

#### 1. Adherence to Both Chinese and U.S. Law

Nine of the fifteen contracts reviewed by the Subcommittee contain language similar to that in the template on Hanban's website, which sets forth the governing laws for each Confucius Institute.[169] Specifically, one provision of the template reads, "Confucius Institute activities will be conducted generally in accordance with the Confucius Institute Constitution and ... the laws and regulations of both countries."[170] Similarly, the Constitution sets forth, "The Confucius Institutes shall abide by the laws and regulations of the countries in which they are located, respect local cultural and educational traditions and social customs, and they shall not contravene concerning the laws and regulations of China."[171]

For example, one U.S. school's contract with Hanban requires that "[t]he Institute activities must be in accordance with the Constitution and By-laws, and also respect the cultural customs, shall not contravene concerning the laws and regulations, both in the United States and China."[172] A different U.S. school's contract with Hanban stipulates that Confucius Institute's activities "will be conducted generally in accordance with the Constitution and By-laws, the regulations, policies, and practices of [the U.S. school], cultural customs in the United States and China, and the law and regulations of both countries (the 'Standards')."[173] That same contract, however, continues with this important caveat:

> [R]ecognizing that the Confucius Institute at the [U.S. school] will be based on [the U.S. school's] campus, the parties agree that federal, state,

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[168] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 10 (2019).
[169] Documents and Interview Records on file with the Subcommittee.
[170] Documents on file with the Subcommittee (July 25, 2018, July 18, 2018).
[171] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[172] Documents on file with the Subcommittee (July 18, 2018).
[173] Documents on file with the Subcommittee (July 25, 2018).

> and local laws of the United States, as well as [the U.S. school's] regulations, policies, and practices (including principles of academic freedom and non-discrimination), will prevail in the event any inconsistency or conflict among these Standards.[174]

This provision, explicitly referring to the U.S. school's principles of academic freedom, is an exception—and certainly not the norm.

While it is easy for U.S. school officials to dismiss the notion that Chinese law would apply on their campuses, the issue is more complicated when it comes to Chinese teachers and directors vetted and reviewed by Hanban. The U.S. schools, as discussed in more detail later in the report, have little to no visibility into the hiring process or the contractual specifics governing the relationships between Hanban, the Chinese schools, and the visiting Chinese staff.[175]

Despite any skepticism to the contrary, it is clear that Hanban and its officials take these governing law provisions very seriously. In at least one example, a U.S. school system could not agree to the governing law clause due to provision in state law, and Hanban refused to move forward with the proposal. For nearly a year, according to documents reviewed by the Subcommittee, that U.S. school system sought to partner with Hanban to form a centralized Chinese language center that could coordinate K–12 Chinese language instruction in that state.[176] State law, however, prevented that U.S. school from "accepting litigation in a jurisdiction other than the" state it operated in.[177] The U.S. school then wrote to Hanban explaining, "Therefore, [the U.S. school] and school system, as State agencies, cannot agree to a clause subjecting them to either the substantive law or the jurisdiction of another state or foreign entity."[178] The U.S. school subsequently proposed more generic language that it felt would allow them to comply with state law.

The compromise was not enough, however, and Hanban withdrew its proposal.[179] Hanban's Executive Deputy Director General wrote a letter detailing why Hanban could not continue with the proposal. The letter stated:

> It is understood that both our organizations are committed to the growth of the Chinese language learners in [the state]. I understand that the [State]/China proposal that you submitted has undergone deep

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[174] *Id.*
[175] *See* Subhead 3 of this Report: *U.S. School Officials have Little to No Visibility into Hanban's Application or Vetting Processes in China.*
[176] Documents on file with the Subcommittee (Aug. 30, 2018).
[177] *Id.*
[178] *Id.*
[179] Documents on file with the Subcommittee (Aug. 30, 2018).

> discussion for some time because both sides are committed to this partnership. However, I also understand that both sides must adhere to their governmental policies in each respective country.
>
> ...
>
> [ ] The MOU agreements that are signed have to follow the *Constitution and By-laws of the Confucius Institute,* which was the template shared for the agreement to be signed and approved. The [State]/China Proposal altered some of this language which does not follow the *Constitution and By-laws of the Confucius Institute.*[180]

In the end, according to an official from that U.S. school in an interview with the Subcommittee, the school did not have the legal authority to enter into the agreement that Hanban needed.[181] The program was never established.[182]

### 2. Non-Disclosure and Confidentiality Clauses

There is also a troublesome lack of transparency concerning the contracts between U.S. schools and Hanban. Six of the fifteen contracts reviewed by the Subcommittee contained clauses limiting public disclosure of the agreement.[183] Additionally, none of the contracts reviewed by the Subcommittee were publicly available online at the time of the request. Students, faculty, and other interested parties likely would not have been able to obtain Hanban's contracts.

The non-disclosure provisions varied by contract. For example, the contract between Hanban and one U.S. school for a Model Confucius Institute stated, "The parties to this Agreement will treat this Agreement as confidential and will not, without prior written consent, publish, release or disclose the terms of this agreement to [a] third party."[184] Another U.S. school's contract with Hanban contained an "Other Terms" provision that limited even the university's ability to issue press releases concerning the agreement with Hanban, as shown on the next page: [185]

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[180] *Id.*
[181] Interview Records on file with the Subcommittee (Nov. 14, 2018).
[182] *Id.*
[183] Documents on file with the Subcommittee.
[184] Documents on file with the Subcommittee (July 26, 2018).
[185] Documents on file with the Subcommittee (July 25, 2018).

| Article 12 Other Terms |
| --- |
| Neither party will issue any press release or make any public disclosure concerning this Agreement or use the name, insignia, or symbols of the other party for any purpose without such other party's prior written consent. |

Even if agreements did not include explicit blanket confidentiality provisions, they often included some protection against disclosure. At least one contract contained broad language that forbade the disclosure of any information related to a party's "business methods, financial information, future plans, personnel data . . . or information designated as 'confidential' by a disclosing party, including but not limited to the financial terms of the [agreement]."[186]

### 3. Termination Provisions

All 15 agreements between U.S. schools and Hanban reviewed by the Subcommittee include some version of a termination provision warning that a university action that "severely harms the image and reputation" of the Confucius Institute could result in termination of the agreement and Hanban funding.[187] Some schools have a similar provision that allows either party to terminate if one party severely harms the image of the other party.[188] All are consistent with the Confucius Institute Constitution holds that, "all Confucius Institutes shall . . . uphold and defend the reputation of the Confucius Institutes" and "accept both the supervision from and assessments made by [Hanban]."[189] The Constitution further allows Hanban to "pursue legal action . . . and invoke punitive consequences" for any violation of the Constitution or for taking any action that "damages or tarnishes the reputation of the Confucius Institutes."[190]

In some cases, contract provisions obligated the U.S. school to repay Hanban if the school terminated the agreement before completion date.[191] This strongly disincentives the U.S. school from terminating an agreement early. In at least one recent case, a U.S. school recognized this repayment dilemma while negotiating

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[186] Documents on file with the Subcommittee (July 19, 2018).
[187] Documents on file with the Subcommittee.
[188] Documents on file with the Subcommittee (Oct. 29, 2018, July 25, 2018).
[189] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[190] *Id.*
[191] Documents on file with the Subcommittee (July 27, 2018).

with Hanban. A U.S. school official reviewing Hanban's contract for the creation and construction of a Model Confucius Institute wrote the following in an email to other officials, "I left in the early termination penalty—it's ultimately a business call—but we need to be aware that once this deal starts up, the cost of 'divorce' is going to be high (unless we can trigger the 'embarrass the University' termination clause)."[192] The final version of that contract included a detailed termination provision, as shown below: [193]

> **CHAPTER VIII TERMINATION AND INDEMNIFICATION**
>
> **ARTICLE 23** Upon the University's unilateral termination of the agreement on the establishment of the Confucius Institute at the Headquarters, this agreement shall automatically terminate. In such a case, the University shall assume the liability for terminating this agreement early, and pay an early termination fee (equal to $7,500.00 multiplied by 120 minus the number of complete months that have passed between the December 30, 2016 and the date of termination). By way of illustration, if the University terminated this Agreement effective on the date that was 48 months after the December 30, 2016, then the early termination fee would equal $540,000 [$7,500.00 x (120-48)]. If the University terminated this Agreement effective on the date that was 80 months after December 30, 2016, then the early termination fee would equal $300,000 [$7,500.00 x (120-80)]. The University shall, within 45 days after the date of the early termination of this agreement pay the early termination fee by bank transfer to the Headquarters.

### 4. Hanban Reviews and Approves Contracts between U.S and Chinese Schools

One other way Hanban maintains leverage over the relationship between the U.S. school and their Chinese counterpart is to retain final approval of the agreements. The implementation agreements or MOUs between U.S. and Chinese schools formalize the relationship between the two institutions and provide details about hiring of instructors and directors and the parties' roles and responsibilities. In some cases, these relationships existed before Hanban's involvement, but in other cases, Hanban initiated communications between the two schools.[194]

The agreements between the schools are subject to Hanban review and approval. For example, in one U.S. school's contract with Hanban, Hanban "will

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[192] *Id.*

[193] *Id.* The U.S. school ultimately signed the contract, but terminated the project before it started. Documents on file with the Subcommittee (Feb. 22, 2019).

[194] Interview Records on file with the Subcommittee (Jan. 28, 2019, Jan. 29, 2019, Oct. 22, 2018).

authorize and appoint the Chinese institution."[195] Furthermore, the contract requires that the U.S. and Chinese schools sign supplementary agreements, which "should be reviewed by the Headquarters prior to signing."[196] Other agreements include language such as, "The Institute must accept [Hanban's] periodical evaluation of the Institute, including its educational and cultural programs"[197] or "The Institute must accept the assessment of [Hanban] on the teaching quality."[198] Hanban, of course, also retains tangible control of the Confucius Institutes by directly providing Chinese director and teacher salaries and living expenses. Lastly, Hanban also has the power to ultimately reject applications to establish Confucius Institute programs.[199]

### D. Hanban's Hiring Process for Chinese Directors and Teachers

While both the American and Chinese directors generally serve at the pleasure of the Board, the American director is almost always a faculty member or administrator working at the U.S. school.[200] Confucius Institutes' Chinese directors, teachers, and visiting scholars, on the other hand, have no previous connection to the U.S. school and are vetted, selected, and paid by Hanban and/or the Chinese school. The U.S. schools reviewed by the Subcommittee had little to no knowledge about Hanban's interviewing, hiring, and training processes that take place in China before the selected individuals arrive in the United States.

#### 1. Confucius Institute Directors

Confucius Institutes are typically run by two directors—an American director or as Hanban calls the position, the "foreign director," and a Chinese director selected by Hanban. In some cases these two directors have equal authority and operate essentially as co-directors. For example, one U.S. school's agreement with Hanban states that the Confucius Institute "will have two Co-Directors, one appointed by the University, and one by [Hanban], in consultation with the Board" and those co-directors, "shall exercise directorial authority over the affairs of the Institute by making decisions jointly."[201] The agreements between Hanban and three other U.S. schools reviewed by the Subcommittee require that the contracting parties appoint one director respectively without distinction.[202] This arrangement cedes equal control of the day-to-day operations to Hanban, who hires and pays the Chinese director.

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[195] Documents on file with the Subcommittee (July 25, 2018).
[196] Documents on file with the Subcommittee (Oct. 29, 2018, July 25, 2018).
[197] Documents on file with the Subcommittee (July 18, 2018).
[198] Documents on file with the Subcommittee (July 26, 2018, July 23, 2018).
[199] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[200] Interview Records on file with the Subcommittee (Jan. 28, 2019, Jan. 29, 2019, Oct. 22, 2018).
[201] Documents on file with the Subcommittee (Nov. 14, 2018).
[202] Documents on file with the Subcommittee (July 17, 2018, July 26, 2018, July 27, 2018).

Some American directors, who are typically faculty members, deans, or vice-provosts, have other responsibilities at their school beyond simply overseeing a Confucius Institute. These additional duties can allow the Chinese director to assume control of the Confucius Institute's day-to-day operations. For instance, at one U.S. school the Subcommittee visited, the American director has a myriad of responsibilities outside of her role as the Confucius Institute's director. These responsibilities include travel abroad, administrative duties, and teaching classes on campus.[203] Therefore, most days, the Chinese director is left in charge of the day-to-day operations.[204] That Chinese director, as was the case at most Confucius Institutes the Subcommittee visited, is also responsible for most of the communications with Hanban.[205]

At some schools, the American director acts as the chief director and the Chinese director serves as his or her deputy. For example, the agreement between one U.S. school and Hanban makes clear that the U.S. school appoints a director and Hanban appoints an associate director.[206] A different agreement establishes a similar hierarchy that makes clear that the Vice President for Arts and Sciences will act as the director and that the "Chinese partner institution will nominate a Chinese Collaborating Director."[207]

These distinctions between directors notwithstanding, both are appointed by, and serve at the pleasure of, the Board. According to the Constitution, the American director assumes "the main responsibility for the Institutes' daily operation and administration."[208] The Chinese director is responsible for reporting to Hanban and supervising the other Chinese staff.[209] Roles vary from school to school depending on staffing and circumstances of the specific Confucius Institute, but most agreements reflect the notion that the "day-to-day management of the Institute shall be the responsibility of the Institute's Director and Associate Director."[210]

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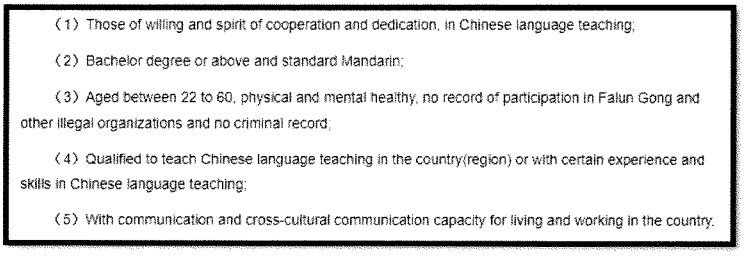
[203] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[204] *Id.*
[205] *Id.*
[206] Documents on file with the Subcommittee (Oct. 29, 2018).
[207] Documents on file with the Subcommittee (July 25, 2018).
[208] *Constitution and By-Laws of the Confucius Institutes*, HANBAN, http://english.hanban.org/node_7880.htm.
[209] *Id.*
[210] Documents on file with the Subcommittee (Oct. 29, 2018).

### 2. Hanban's Application Process and Selection Criteria

According to Chinese directors and instructors interviewed by the Subcommittee, potential Confucius Institute directors and teachers apply for positions posted on Hanban's website.[211] Those Chinese directors and instructors described a process in which they responded to an opening for a specific role at a U.S. Confucius Institute posted on Hanban's website.[212] The applicants then consulted with their school employer and applied for the position through Hanban's website.[213]

Hanban develops criteria for Chinese applicants. Some of Hanban's qualification requirements for prospective Confucius Institute teachers are posted online. In addition to required credentials such as proficiency in Chinese and English, Chinese teachers who want to teach at a Confucius Institute in the United States must "have Chinese nationality" and "have strong senses of mission, glory, and responsibility and be conscientious and meticulous in work."[214]

Hanban's website previously contained additional requirements for Chinese applicants including, "[N]o record of participation in Falun Gong and other illegal organizations."[215] The screen shot below was taken from an archived portion of Hanban's webpage that details Chinese applicants "Basic Qualifications":[216]



(1) Those of willing and spirit of cooperation and dedication, in Chinese language teaching;

(2) Bachelor degree or above and standard Mandarin;

(3) Aged between 22 to 60, physical and mental healthy, no record of participation in Falun Gong and other illegal organizations and no criminal record;

(4) Qualified to teach Chinese language teaching in the country(region) or with certain experience and skills in Chinese language teaching;

(5) With communication and cross-cultural communication capacity for living and working in the country.

After a Canadian documentary on Confucius Institutes shed light on this provision, however, Hanban appears to have removed it from its English-language

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[211] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[212] Interview Records on file with the Subcommittee (Jan. 8, 2019, Oct. 22, 2018).
[213] *Id.*
[214] *Government Sponsored Teacher Program*, HANBAN, http://english.hanban.org/node_7973.htm.
[215] *Overseas Volunteer Chinese Teacher Program*, HANBAN, http://english.hanban.org/volunteers/node_9806.htm.
[216] *Id.*

website.[217] While, the provision regarding Falun Gong was removed from Hanban's website, the intent to exclude applicants based on religious or political affiliation remains. For example, the Chinese language application on the current Hanban application website for volunteer teachers contains new criteria requiring that an applicant have "moral integrity, no record of participation in cults and other illegal organizations, no criminal record."[218] While the explicit reference to "Falun Gong" was removed amidst charges of religious discrimination, the vague references to "illegal organization records," and "cults" remain.

Hanban also establishes criteria for Chinese directors. Hanban's website states that Chinese directors:

> Should be between 35 and 55 years old, healthy, familiar with the country to which they are appointed, proficient in the local language, comfortable using computer software and the internet, and 'passionate about Chinese language teaching and Confucius Institute undertakings.'[219]

Hanban also states that directors should have a "sound comprehension of current Chinese national issues" and "strong ability to conduct public relations and deal effectively with emergencies."[220] Potential directors are also told "the nominee must abide by laws and regulations of China and the destination country."[221]

Once applicants are selected after submitting applications through Hanban's website, they are then put through a series of in-person interviews in China. According to Chinese directors and instructors interviewed by the Subcommittee, all applicants are required to sit for a screening test organized by Hanban.[222] The test includes a written examination and an interview. The written portion includes questions on Chinese language teaching; Chinese language teaching methodology; classroom management; Chinese culture and cross-cultural communication; professional ethics; and professional development issues.[223] The interview includes, a discussion, among other things, of candidates' professional knowledge, teaching

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[217] *See* In The Name Of Confucius (Mark Media 2017).
[218] *"International Overseas Volunteer Chinese Language Teachers Program" Guidelines*, HANBAN, http://res.chinese.cn/hanban/zhiyuanzhe/haiwaizhiyuanzhe/shixingbanfa.docx. (Translation provided to the Subcommittee).
[219] PETERSON REPORT at 36 (citing *"If You Want to Apply for Position as Chinese Director of Confucius Institute,"* Hanban News (Apr. 3, 2014).
[220] Guide for Confucius Institute Deans, HANBAN, /http://english.hanban.org/node_7877.htm.
[221] If you want to apply for position as a Chinese director of Confucius Institute, HANBAN (Apr. 3, 2014) http://english.hanban.org/article/2014-04/03/content_530853.htm.
[222] Interview Records on file with the Subcommittee (July 23, 2018, Nov. 13, 2018, Oct. 22, 2018).
[223] *Id*

skills, cross-cultural competence, foreign language competence, and a psychological evaluation.[224]

Several of the Chinese teachers interviewed by the Subcommittee described what they called a "psychological interview" used to determine whether or not the applicant could withstand the "culture shock" associated with living and teaching in the United States.[225] This "psychological exam" is taken on a computer and contains a series of questions, including sometimes asking the applicant to draw a picture, apparently designed to gauge competency.[226]

In 2009, during the early stages of Hanban's Confucius Institute program, several U.S. Confucius Institute directors expressed concerns regarding Chinese instructors and directors leaving unexpectedly. In one email chain obtained by the Subcommittee, a Confucius Institute director wrote:

> I don't think that someone fresh from China should be sent alone into a US classroom to teach. Ideally, a group of people would receive at least 3 months training and an 'acclimatization' opportunity to advance, and then someone would be SELECTED from this group to teach. The rest might prove to be inappropriate.[227]

A Hanban official responded to that email chain, "I understand the problems with teachers you have been discussing. Hanban is very very concerned about that too. We have been trying hard to think about ways to solve it and with that, we desperately need assistance with our Confucius Institute."[228]

### 3. U.S. School Officials have Little to No Visibility into Hanban's Application or Vetting Processes in China

U.S. schools have little to no visibility into Hanban's application or vetting processes in China despite the fact that the applicant is going to be working on the U.S. school campus for two or more years. The entire pool of applicants presented to U.S. schools has already been reviewed, interviewed, and chosen by Hanban officials.[229] The U.S. schools do not have a complete understanding of Hanban's interview process.[230] This is concerning because Hanban could use processes that

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[224] *Id.*
[225] Interview Records on file with the Subcommittee (Jan. 28, 2019, Jan. 29, 2019, Oct. 22, 2018).
[226] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[227] Documents on file with the Subcommittee (Aug. 30, 2018) (emphasis in original).
[228] Documents on file with the Subcommittee (Aug. 30, 2018).
[229] Interview Records on file with the Subcommittee (Jan. 29, 2019, Jan. 28, 2019, Sept. 24, 2018, Nov. 13, 2018).
[230] *Id.*

are not in line with hiring or selection processes at U.S. schools. As one Confucius Institute American director explained to the Subcommittee, "There's a lot we don't understand" about how teachers are selected and presented.[231]

Since the initial pool or group of applicants is screened and selected by Hanban, applicants could be screened out for reasons unknown to the school. One U.S. school official stated that he "couldn't tell [the Subcommittee] how the group is selected."[232] Additionally, GAO investigators also spoke with U.S. school officials who "expressed concerns with the Confucius Institute teacher selection process whereby Hanban or the Chinese partner school accepts initial applications from potential Confucius Institute teachers and proposes candidates to the U.S. school."[233]

Finally, none of the officials at U.S. schools visited or interviewed by the Subcommittee received contracts or agreements between Hanban or the Chinese school and their Chinese instructors and directors. Those U.S. officials, therefore, are not in a position to understand if Hanban's hiring procedures or practices are consistent with their own teacher hiring. They also are unable able to determine if those contracts included any references to "good moral character" or participation in any "illegal organizations" like Hanban's online volunteer teacher application.

Although no school visited by the Subcommittee reviewed these contracts prior to the formation of their Confucius Institute, the Subcommittee did obtain one 2018 contract from a Chinese instructor.[234] This agreement documented the instructor's obligations to both Hanban and the Chinese school. In the English version of the contract provided to the Subcommittee, there are several references to questionable vetting and monitoring practices employed by the Chinese government:

- The contract states that the Chinese instructor should "report to the overseas work unit and/or Chinese Embassy/Consulate within one month of arrival."[235]

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[231] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[232] Interview Records on file with the Subcommittee (Sept. 24, 2018).
[233] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 24 (2019).
[234] The Subcommittee was unable to obtain older versions of Hanban's contract. Several Chinese instructors and directors referenced older contracts, but stated the contracts were not in the United States.
[235] Documents on file with the Subcommittee (Nov. 14, 2018).

- The contract states that the Chinese instructor "should conscientiously safeguard national interests."[236]

- The contract states that the Chinese instructor must not "participate in illegal organizations," but at the same time "should respect the culture and customs of the overseas country s/he is dispatched to and foster friendship with local people."[237]

- The contract requires that the Chinese school that the Chinese instructor is affiliated with must maintain the Chinese instructor's "personal profiles, archival information as well as party affiliation."[238]

- The contract terminates if the Chinese instructors "violate Chinese laws" or "engage in activities detrimental to national interests; participate in illegal organizations and engage in activities against local religions and customs, hence causing bad influences."[239]

- The contract also terminates if Chinese instructors "refuse to follow the rules and regulations of the overseas work unit, Chinese Embassy, and Consulates and Confucius Institute Headquarters/Hanban."[240]

- The contract states that the Chinese instructor "agrees to abide by the relevant regulations regarding overseas dispatched teachers by Confucius Institute Headquarters/Hanban, which may not be listed in the full Agreement."[241]

### E. Hanban's Approval of Confucius Institute Funding and Events

Hanban approves all Confucius Institute funding and events through the contracts and budget approval process. With this control, Hanban maintains the ability to veto programming, speakers, and events held at Confucius Institutes in the United States. Some of the officials at U.S. schools visited by the Subcommittee expressed concern that Hanban has this power and can influence a range of activities. Other U.S. school officials the Subcommittee interviewed, however, did not express those same concerns. This section details Hanban's budget approval

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[236] *Id.*
[237] *Id.*
[238] *Id.*
[239] *Id.*
[240] *Id.*
[241] *Id.*

process, provides some examples of Hanban's challenging approval process, and also details Hanban's requests for statistics and media reporting of Confucius Institute activity in the United States.

### 1. Hanban Approves All Confucius Institute Spending

#### i. Annual Budget and Ad Hoc Events

Hanban reviews and approves each Confucius Institute's annual budget which details that year's speakers, events, topics and more.[242] According to interviews with the Subcommittee, each Confucius Institute typically submits a proposed budget for the upcoming year in February.[243] As it works to approve that budget proposal, Hanban will distribute roughly fifty percent of the previous year's budget allocation so the Confucius Institute can hold events and programming in the first few months of the year. Hanban can also approve *ad hoc* events that were not submitted in the annual budget proposal.[244] Hanban then approves the budget and distributes the rest of the funds later in the year—usually around July or August.[245]

In some cases, Hanban appeared to request more information about cultural activities and lectures before approving funding. For example, one Hanban official wrote a reminder to roughly 20 Confucius Institute directors that more information was needed before approvin the release of funds.[246] The official explained that for events in the "cultural lecture type of program" it is necessary to "please report the name of the speaker, [provide] a brief introduction, and an outline of the lecture before the date of the lecture. Otherwise it will be difficult to approve the funding for these events."[247]

In 2013, Hanban also sought to create a database of pre-approved speakers and foreign experts that could speak at Confucius Institutes around the world.[248] According to documents reviewed by the Subcommittee, Hanban's official in charge of "Confucius Institute affairs in Australia and America" sent a form to U.S. Confucius Institute directors soliciting input for a database of approved speakers.[249] The Hanban official asked the directors to complete and send back a form titled "Recommendation Form for the Experts Selected to Make Cultural Lecture

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[242] Interview Records on file with the Subcommittee (Jan. 29, 2019).
[243] *Id.*
[244] *Id.*
[245] *Id.*
[246] Documents on file with the Subcommittee (Aug. 30, 2018).
[247] *Id.*
[248] *Id.*
[249] *Id.*

Tours."[250] Hanban planned to review the forms and, as per the email excerpt below, create a database of Hanban approved presenters.[251]

> To better support the cultural events conducted by the Confucius Institutes around the world, the Confucius Institute Headquarters (Hanban) plans to establish a database of Chinese and foreign experts who can make letcture tours on Chinese culture. For this, we would like to ask each CI to help recommend to the Headquarters domestic and foreign candidates and there is no limit on the number. The Headquarters will select and determine the candidates that will be put into the database from the recommended persons, and will recommend them to CIs around the world and send them to CIs to make lecture tours according to the plan of the Headquarters and needs of the various institutes. Please find attached for more details.

In interviews with the Subcommittee, other Confucius Institute American directors indicated that while Hanban did not veto programming or proposed events, they often quibbled over the amount of funding requested for a particular program or event.[252] For example, one Confucius Institute director told the Subcommittee that Hanban accepted "90 percent" of the U.S. school's submissions over the past five years.[253] For the other 10 percent, Hanban objected only to the amount of funding requested, and not the programming or event topic itself.[254] In those cases, Hanban ultimately funded the programs, but with less funding than originally requested.[255]

Hanban also sought information concerning the availability of television channels at Confucius Institutes in the United States. In one example from 2011, as shown here, a Hanban official asked roughly 50 Confucius Institute directors if China Central TV ("CCTV") was available:

> Dear Directors,
>
> Please advice whether your CI/ CC has cable TV that can receive China International Television Channels, i.e. CCTV 4 and/or CCTV 9. We are in the process of collecting data for setting up a new initiative with our China Central TV, your cooperation will be much appreciated.
>
> Kind regards,

[256]

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[250] *Id.*
[251] *Id.*
[252] Interview Records on file with the Subcommittee (Jan. 29, 2019, Jan. 28, 2019, Nov. 14, 2018).
[253] Interview Records on file with the Subcommittee (Jan. 28, 2019).
[254] *Id.*
[255] *Id.*
[256] Documents on file with the Subcommittee (Aug. 30, 2018).

CCTV was the national television station of the People's Republic of China in 2011.[257] According to filings with the Department of Justice, "CCTV falls under the supervision of the State Administration of Radio, Film, and Television which is in turn subordinate to the State Council of the People's Republic of China."[258] CCTV International was later rebranded as China Global Television Network ("CGTN") at the end of 2016 and "now oversees all new foreign language channels and digital content."[259] On February 1, 2019, CGTN America registered with the Department of Justice under the Foreign Agents Registration Act.[260]

### ii. Examples of Hanban's Approval or U.S. Schools' Concerns

Some U.S. school officials, administrators, and instructors told the Subcommittee and other government investigators that they had concerns about the Chinese government's control and influence over Confucius Institute planning and programming. The Subcommittee also interviewed several Chinese directors and instructors who explained that they did not have concerns about academic freedom. The following items come from the Subcommittee's interviews and review of documents:

- One U.S. school administrator explained that when something is "funded by the Chinese government, you know what you're getting."[261]
- One U.S. school administrator told the Subcommittee that while their Confucius Institute hosted a wide range of events, they still had to "get permission" from Hanban for all events.[262]
- One Confucius Institute Chinese instructor told the Subcommittee that Hanban trained her to "just tell the truth" when it came to discussing politically sensitive issues.[263]

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[257] Filing by Ogilvy Public Relations Worldwide, *Exhibit A to Registration Statement Pursuant to the Foreign Agents Registration Act* (Jan. 25, 2012), https://efile.fara.gov/docs/5807-Exhibit-AB-20120125-11.pdf.
[258] *Id.*
[259] *2017 Annual Report*, Report to Congress of the U.S.-China Economic And Security Review Commission 475 (2017), https://www.uscc.gov/sites/default/files/annual_reports/2017_Annual_Report_to_Congress.pdf
[260] Filing by CGTN America, *Exhibit A to Registration Statement Pursuant to the Foreign Agents Registration Act* (Feb. 1, 2019), https://efile.fara.gov/docs/6633-Exhibit-AB-20190201-1.pdf.
[261] Interview Records on file with the Subcommittee (Sept. 24, 2018).
[262] Interview Records on file with the Subcommittee (Nov. 14, 2018).
[263] Interview Records on file with the Subcommittee (Jan. 8, 2019).

- In an internal email, a U.S. school administrator wrote that she did a "look up" of a potential Confucius Institute speaker's work and it "doesn't seem particularly inflammatory."[264] A different U.S. school administrator told the Subcommittee that vetting speakers was not part of the academic process, that the email was written by the development office, and that the speaker did present at the Confucius Institute.[265]

- Several Confucius Institute American and Chinese directors and instructors told the Subcommittee that if a student brought up politically sensitive topics, such as Taiwan or Tibet, as language instructors they would not address them.[266]

- One U.S. school official told the Subcommittee that Chinese instructors and directors "wouldn't talk about" politically sensitive issues because they just teach Chinese language courses.[267]

- One U.S. school recommended replacing teachers hired by Hanban and the Confucius Institute with language teachers hired directly by the school's East Asian languages department. The school explained that this recommendation was in reaction to "campus discomfort with the language teaching element" of the Confucius Institute because using "'outsourced' teachers is often more trouble than it is worth."[268] The school also recommended making clear that Hanban would not have "line item veto in approving the annual" Confucius Institute budget.[269]

- One U.S. school official, at a world-renowned U.S. institution, explained to the Subcommittee that Hanban made a particularly large gift because it wanted be "associated with a topflight American university."[270]

- Several Chinese embassy officials visited one U.S. school after the U.S. Government Accountability Office sent a request for information concerning Confucius Institutes, according to one U.S. school

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[264] Documents on file with the Subcommittee (July 30, 2018).
[265] Interview Records on file with the Subcommittee (Jan. 25, 2019).
[266] Interview Records on file with the Subcommittee (Oct. 22, 2018, Jan. 8, 2019, Sept. 24, 2018).
[267] Interview Records on file with the Subcommittee (Sept. 24, 2018).
[268] Documents on file with the Subcommittee (July 18, 2018).
[269] *Id.*
[270] Interview Records on file with the Subcommittee (Jan. 25, 2019).

administrator. The embassy officials wanted to know if that U.S. school received the request and if they intended to comply with it.[271]

- A U.S. school conducted an internal review that found "a political science professor who taught in China expressed deep concern about visiting faculty having been given a manual of *dos and don't* and having a HANBAN class monitor assigned to observe each class session."[272] That internal review, however, concluded that "it appears HANBAN exerts little, if any political influence on [the U.S. school's] programming and activities ..."[273]

- One U.S. school "slow-rolled" the construction of a Model Confucius Institute building because Hanban "tried to exert too much control" over the project. That same school eventually signed the contract once they were satisfied with the terms, but recently cancelled the project given the "current political environment."[274]

- One State Board of Education office wrote an email to the Confucius Classrooms in the state, "For those schools who've recently been awarded Confucius Classroom funds, please note that they may not be used to support attendance at, or sponsoring of Shen Yun performances."[275] According to the State Department, Shen Yun is "a Falun Gong-related performing arts show.[276]

At the request of several members of Congress, the U.S. Government Accountability Office ("GAO") reviewed Confucius Institutes around the United States and also reported incidents of concern regarding academic freedom.[277] GAO investigators interviewed several school officials, researchers, and others who "expressed concerns that hosting a Confucius Institute could limit events or activities critical of China—including events at the Confucius Institute and elsewhere on campus."[278]

GAO then listed several case studies and examples, as quoted below:

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[271] Interview Records on file with the Subcommittee (Oct. 22, 2018).
[272] Documents on file with the Subcommittee (July 26, 2018) (emphasis in original).
[273] *Id.*
[274] Interview Records on file with the Subcommittee (Feb. 22, 2019).
[275] Documents on file with the Subcommittee (Apr. 17, 2018) (emphasis in original).
[276] State Dep't, Bureau of Democracy, Human Rights, and Labor, *July-December, 2010 International Religious Freedom Report* 4 (Sept. 13, 2011).
[277] *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 10 (2019).
[278] *Id.* at 23.

- Several researchers stated that a school with a Confucius Institute could choose to avoid hosting events on certain topics elsewhere on campus, such as Taiwan, governance of Tibet, or the Tiananmen Square protests, so as to not offend its Chinese partners or out of consideration for the terms of the agreement.[279]

- One researcher referenced an incident at one school where the Confucius Institute Chinese director allegedly removed literature about Taiwan from another professor's door.[280]

- Another researcher cited a reported incident at an academic conference where a Hanban representative tried to remove information on Taiwan from the program provided to conference attendees.[281]

- Several [U.S. school officials interviewed by GAO] expressed concern or uncertainty about whether a Confucius Institute would sponsor a research project or organize an event on a topic that could include criticism of China.[282]

- According to an official at a school that closed its Confucius Institute, Hanban refused to fund a faculty research proposal in environmental studies as it did not align with Hanban's vision of Confucius Institutes as an organizer and funder of Chinese cultural events, and Hanban wanted to limit institute activities to student events.[283]

Other U.S. school administrators and American Confucius Institute directors told both the Subcommittee and GAO that they either had no concerns about academic freedom or undue Chinese influence or that they had taken some measures meant to address such concerns. In fact, most of the U.S. administrators interviewed by the Subcommittee stated that they did not have concerns about Confucius Institute operations at their institution.[284] One U.S. official said she was "stunned by the criticisms" of Confucius Institutes when asked to respond to recent

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[279] *Id.*
[280] *Id.*
[281] *Id.*
[282] *Id.*
[283] *Id.*
[284] Interview Records on file with the Subcommittee (Jan. 28, 2019, Jan. 29, 2019, Jan. 8, 2019, Nov. 13, 2018).

controversies in the news.[285] Another U.S. school official explained to the Subcommittee that having a Confucius Institute on campus was a "great experience."[286] That same official said she spoke with students and teachers and did not find any "political dogma."[287]

Several U.S. school administrators also indicated that the Dalai Lama visited their schools while they had a Confucius Institute. While the visits were not hosted by Confucius Institutes, according to those officials, Hanban did not object to the Dalai Lama's visits.[288] One U.S. school administrator told the Subcommittee that she was not aware of problems with academic freedom in the contract with Hanban or in practice during Confucius Institute operations.[289]

GAO also reported similar findings. According to its review, "Officials at several case study schools also noted that the funding provided for Confucius Institutes was a small proportion of a larger budget related to Asian studies and/or Chinese languages, and as a result did not have the ability to exert undue influence."[290] GAO also reported, "Officials from multiple case study schools noted that U.S. school faculty members make all decisions regarding conference themes guest speakers, and topics for events at their institute." Finally, GAO wrote, "Officials at some case study schools offered examples of events and activities their Confucius Institute had sponsored that addressed topics that could be considered critical of China."[291]

### 2. Hanban Requested Confucius Institute Directors Provide Reports and Media Impact Analysis

According to documents reviewed by the Subcommittee, Hanban also requested that Confucius Institute directors provide detailed reports after events and at the end of the year.[292] Those reports and self-assessments provided Hanban with detailed information about the operations, programming, and classes hosted by Confucius Institutes. For example, in one self-assessment reviewed by the Subcommittee, Hanban sought a substantial amount of information from the U.S. school.

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[285] Interview Records on file with the Subcommittee (Jan. 28, 2019).
[286] Interview Records on file with the Subcommittee (Jan. 29, 2019).
[287] Interview Records on file with the Subcommittee (Sept. 24, 2018).
[288] Interview Records on file with the Subcommittee (Jan. 29, 2019, Jan. 28, 2019).
[289] Interview Records on file with the Subcommittee (Jan. 25, 2019).
[290] U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-278, AGREEMENTS BETWEEN U.S. UNIVERSITIES AND CHINA ARE SIMILAR, BUT INSTITUTE OPERATIONS VARY 27 (2019).
[291] *Id.* at 23-24. (Those events, according to GAO, involved discussions of intellectual property in China and events on territorial disputes in the South China Sea.).
[292] Documents on file with the Subcommittee (Nov. 14, 2018).

For these self-assessments, Hanban asked about the number of programs/classes, the number of enrolled students, the number of cultural festivals, performances, exhibitions, and seminars or lectures, among other items.[293] Hanban then asked about "Community Engagement" by asking the Confucius Institute to "Please describe the extent to which you leverage resources within your local community to support your programs."[294] Under that heading, Hanban asked about the number of Confucius Classrooms and the number of students in "Affiliated Confucius Classrooms."[295] The questionnaire also asked the school to:

> Please describe, in 100 words or less, your target audience: is it local, regional, national, global? If known, please generally describe your target audience's demographics (e.g., urban v. rural; heritage speakers; English language learners, etc.).[296]

Finally, Hanban asked about what it called "Sustainability." Under that section, Hanban asked the Confucius Institute to provide information about the infrastructure and human resources.[297]

More generally, Hanban also sought information from time to time concerning the activities of the year so far. In one case, in the middle of the year, a Hanban official simply wanted to know the number of courses or activities that the Chinese director started and also the number of students enrolled.[298]

In some cases, Hanban was interested in knowing about the positive impact of an event on the local media. For example, one Hanban questionnaire wanted to "fully ascertain the effect" of the Confucius Institute's programming.[299] According to Hanban, the intention of the questionnaire was to "better fulfill the various needs of Confucius Institutes" and "increase the influence of the Confucius Institutes."[300] The questionnaire included a "Media Reports" section that listed certain categories, as quoted below:

- Considerable attention from local newspapers
- Consideration attention from local radio stations
- Consideration attention from local TV stations

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[293] Documents on file with the Subcommittee (Aug. 30, 2018).
[294] *Id.*
[295] *Id.*
[296] *Id.*
[297] *Id.*
[298] Documents on file with the Subcommittee (Nov. 14, 2018).
[299] *Id.*
[300] *Id.*

- Consideration attention from local websites
- Not much media coverage
- A few negative reports[301]

Hanban was not only concerned about a Confucius Institute's positive media coverage, but was also interested in potentially negative media coverage. For example, in mid-2011, Hanban issued a directive via email to various Confucius Institute directors and instructors. According to an English translation of the directive, Hanban wrote:

> Given the complexity of the current situation, it is recommended that all Chinese Confucius Institute directors or teachers should not accept media interviews without authorization. If necessary, it is important to report to Headquarters, and after receiving approval from Headquarters, interviews can be accepted.[302]

Some Confucius Institute directors and instructors were also cognizant of the increased scrutiny facing their organizations. For example, in mid-2014, a Confucius Institute American director wrote in an email to Hanban that, "[P]eople who understand both cultures probably are the best ones" for giving Hanban advice.[303] That director continued, "The importance of building a reputable image overseas that is suitable to other cultures will be the key to success in the long term."[304] A day later, the official wrote, "But [Confucius Institutes are] in a special stage, more [Confucius Institutes] may be close [*sic*] if no important actions are taken."[305]

Four years later, as news coverage of Confucius Institutes increased, one American Confucius Institute director attempted to organize other Confucius Institutes in an effort to increase collaboration. In February 2018, that director wrote:

> With the current political climate and with many Congressman investigation [*sic*] I think this regional conference is important and we planned to have special session for how [the conference] can work together to better support the [Confucius Institute] public image."[306]

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[301] *Id.*
[302] Documents on file with the Subcommittee (Aug. 30, 2018) (Translation provided to the Subcommittee).
[303] Documents on file with the Subcommittee (Aug. 30, 2018).
[304] *Id.*
[305] *Id.*
[306] *Id.*

Two days later, the same director wrote, "In this current political climate with many inquiries into our [Confucius Institutes] it is important for some of the discussions to be US driven and to have some actions [*sic*] plans for how to deal with the media and how to have [Confucius Institutes] work together."[307] At this point, in February 2018, the Subcommittee had not started its investigation, but at least one member of Congress had already sent letters requesting information from various Confucius Institutes around the United States.[308]

## V. CONFUCIUS CLASSROOMS

In addition to Confucius Institutes at post-secondary U.S. schools, Hanban also funds Confucius Classrooms in elementary, middle, and high schools around the globe.[309] According to the 2017 Confucius Institute Annual Development Report, Hanban supports 1,113 Confucius Classrooms, 519 of which operate in the United States.[310] Confucius Institutes can serve as intermediaries for Hanban to K–12 schools and provide funding for Confucius Classrooms in addition to teaching materials, resources, and in some cases, personnel to teach Chinese language and culture.[311] Confucius Classrooms typically either work to advance a school's existing Chinese program with additional funding and resources or assist schools seeking to start a Chinese language program.[312] Consequently, Hanban can have an influential role in elementary and secondary school Chinese language curriculums.

### A. The Growth of Confucius Classrooms

Similar to the Confucius Institute model, Hanban expanded Confucius Classrooms quickly, reaching large numbers of schoolchildren worldwide.[313] By 2017, Hanban had established 1,113 Confucius Classrooms around the world,

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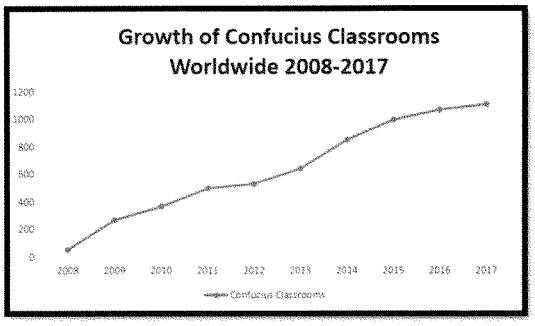
[307] *Id.*
[308] Letter from Rep. Chris Smith (July 20, 2017).
[309] Brendan Smialowski, *How China Infiltrated U.S. Classrooms*, POLITICO, (January 16, 2019), https://www.politico.com/magazine/story/2018/01/16/how-china-infiltrated-us-classrooms-216327.
[310] *Confucius Institute Annual Development Report 2017*, HANBAN 61, 67 (2017), http://www.hanban.org/report/2017.pdf.
[311] Confucius Institute at Western Michigan University, Confucius Classroom Celebrates Chinese Language and Culture Learning in Portage, Western Michigan University, (July 20, 2018), http://www.wmuconfucius.org/content/confucius-classroom-celebrates-chinese-language-and-culture-learning-portage; University of Kentucky International Center, Confucius Classroom, University of Kentucky, (January 15, 2019), http://international.uky.edu/ukci/k12/partners/confucius_classroom.
[312] University of Wisconsin Platteville Confucius Institute, Confucius Classroom, (January 15, 2019), https://www.uwplatt.edu/confucius/confucius-classroom.
[313] *Confucius Institute Annual Development Report 2017*, HANBAN 3 (2017), http://www.hanban.org/report/2017.pdf.

surpassing the number of Confucius Institutes.[314] The chart below shows the worldwide growth of Confucius Classrooms.[315]




This rapid growth can be attributed to both Hanban's desires to expand the program and also the Confucius Classroom model itself. Hanban officials expressed a desire to rapidly expand Confucius Classrooms. Hanban's *Division of Development and Planning* sought information as early as 2009 regarding Confucius Institutes "helping local schools to establish Confucius Classrooms."[316] A Hanban official solicited information from U.S. Confucius Institutes by asking staff to, "Please let us know a rough number of CCs that you are going to set up within 2009." Madam Xu Lin, counselor of the State Council of China and member of the 12th National Committee of the Chinese People's Political Consultative Conference, discussed establishing Confucius Classrooms in the United States at the 2008 Confucius Institute annual meeting.[317] Furthermore, one Hanban official wrote a U.S. Confucius Institute Chinese director, "Developing more Confucius Classrooms is exactly what we have been trying to do. Please keep on working towards this. It will be very rewarding for our efforts."[318]

A separate Hanban email in 2009 sought information concerning Chinese language studies from Chinese directors at Confucius Institutes around the United States. The Hanban official wanted to know, as shown below, "How many K–12 schools in your states are now offering Chinese?"[319]

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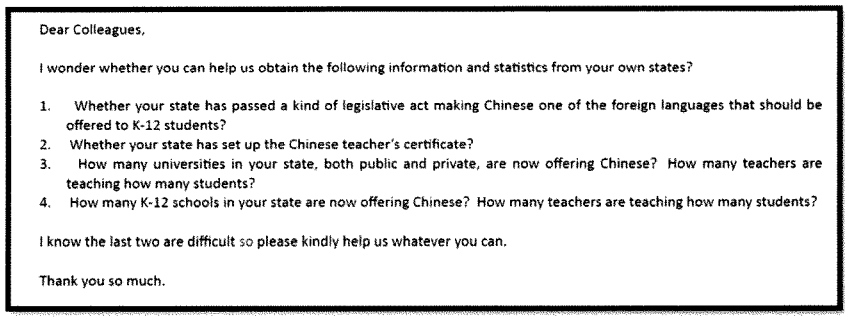
[314] *Id.*
[315] *See Confucius Institute Annual Development Report 2008-2017.*
[316] Documents on file with Subcommittee (Aug. 30, 2018).
[317] *Id.*
[318] *Id.*
[319] *Id.*



Dear Colleagues,

I wonder whether you can help us obtain the following information and statistics from your own states?

1. Whether your state has passed a kind of legislative act making Chinese one of the foreign languages that should be offered to K-12 students?
2. Whether your state has set up the Chinese teacher's certificate?
3. How many universities in your state, both public and private, are now offering Chinese? How many teachers are teaching how many students?
4. How many K-12 schools in your state are now offering Chinese? How many teachers are teaching how many students?

I know the last two are difficult so please kindly help us whatever you can.

Thank you so much.

Later in 2011, Hanban held a U.S. Confucius Classroom Conference in San Francisco. A U.S. school provided minutes and records from that conference to the Subcommittee.[320] According to those minutes, about 200 representatives from 150 operating Confucius Classrooms and 30 Confucius Institutes attended the conference.[321] The minutes detail Hanban's plan for expanding Confucius Classrooms throughout the United States. For example, the minutes state:

> The participants agreed that, establishing CCs affiliated to CIs, is beneficial to building up the Chinese instruction pipeline through K–12 and universities and will help to optimize the integration of Chinese educational resources within the university, therefore, should be the most important way of developing CCs in the future.[322]

The minutes then detail how Hanban planned to "integrate the CCs into the [United States'] official K–12 education" system:

> First, to seek the top-down policy support from the state government, legislative and educational institutions, with a particular emphasis on access to the support from school district superintendents and principals; second, to seek the recognition and support from parents and local community, as well as to inspire local demand and enthusiasm for Chinese language and culture learning, through various cultural activities and display of achievements of classroom instruction; third, to integrate the instruction of Chinese language and culture into curriculum of major subjects teaching taught in U.S. K–12 schools, such as the 'world culture' and other courses; fourth, to create an effective

[320] Documents on file with the Subcommittee (Aug. 30, 2018).
[321] *Id.*
[322] *Id.*

> communication mechanism with the local teach unions and the education administrators, as to create good environment for the living, cultural orientation and professional development for both the guest and local Chinese teachers, as well as promote the sustainable development of the Confucius Classrooms.[323]

Additionally, under the heading titled, "Developing the U.S. Confucius Classrooms in a rapid and effective way," the minutes state "[g]iven the prosperous development of the Chinese language instruction in U.S. K–12 schools and the rising demand for Chinese learning, the conference suggested that, in the coming period, the established of Confucius Classrooms in the United States should be actively continued, under the premise of voluntary."[324] Finally, the minutes indicate that Hanban sought to "formulate the instruction standard" for all Confucius Classrooms. The minutes state:

> In the meantime of accelerating the development, the CCs should also formulate the instruction standard and evaluation index system, strive to improve the quality through promoting Chinese language test, strengthening community links, recruiting qualified teaching personnel and other initiatives. The Headquarters will continue to foster the cooperation with the State Department of Education and local universities, as to widen the certification and professional development channels for the K–12 Chinese language teachers. Special attentions should be paid to support the exchange programs of students and teachers, which will help to stimulate the students' enthusiasm for learning Chinese, and to enhance the students' awareness and understanding of Chinese language, culture and society."[325]

The growth can also be attributed to the fact that a single Confucius Institute can have multiple active Confucius Classrooms that all depend upon it for assistance and mentorship.[326] For instance, the University of Maryland publicly lists ten subordinate Confucius Classrooms operating in a mix of public and private schools around Maryland.[327] Through Confucius Classrooms, some students have had the opportunity to attend Hanban summer camps in China and visit their Classroom's Chinese partner school or university.[328] Hanban provided pre-

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[323] *Id.*
[324] *Id.*
[325] *Id.*
[326] University of Maryland, *Confucius Institute of Maryland, Confucius Classrooms* (Jan. 15, 2019), https://globalmaryland.umd.edu/offices/confucius-institute-maryland/confucius-classrooms.
[327] *Id.*
[328] *See* University of Texas at Dallas, *Confucius Institute, Confucius Classroom Q&A* (Jan. 15, 2019), https://www.utdallas.edu/ah/confucius/docs/Confucius-Classroom.pdf.

secondary school administrators with sponsored trips to China and educational exchanges with Chinese schools.[329]

### B. Confucius Classroom Application Process

Hanban's website states that schools wishing to have a Confucius Classroom must be an educational institution recognized and accredited by the country's government, possess a demand from local citizens and students for learning Chinese language and culture in the locality of the institute, and have the capacity for providing Confucius Classrooms an appropriate working space, as well as personnel and support in funding.[330] Pre-secondary schools seeking a Confucius Classroom engage with and will seek an agreement with a Confucius Institute based at a local school. Those pre-secondary schools must also seek Hanban's approval to receive funds and open a Confucius Classroom or receive an instructor from Hanban.[331]

After receiving Hanban's approval, the school signs an agreement with a host Confucius Institute.[332] The standard agreement contains the Confucius Classroom's scope of activities, such as operating Chinese teaching programs, training local Chinese language instructors, organizing exchange programs, and conducting Chinese language and culture activities.[333] Similar to the contracts between Hanban and U.S. schools, some agreements between Confucius Institutes and K–12 schools establishing a Confucius Classroom are based on templates provided by Hanban that are not substantially altered. For example, one such agreement, shown below, relied on Hanban's template agreement, and still listed uniform identifiers such as "[school name]" and "[country]" in the text with the applicable school names handwritten onto the signed contract: [334]

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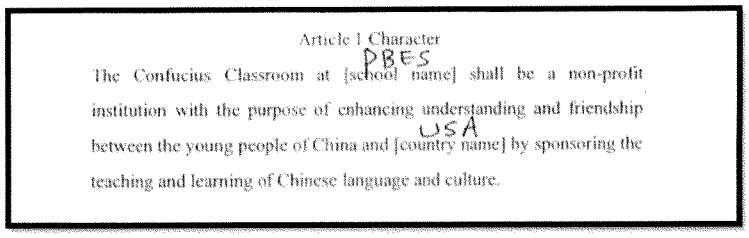
[329] University of Central Arkansas Confucius Institute, *Confucius Classrooms Important Information* (Jan. 15, 2019), https://uca.edu/confucius/frequently-asked-questions-about-confucius-classroom. University of Texas at Dallas, *Confucius Institute, Confucius Classroom Q&A* (Jan. 15, 2019), https://www.utdallas.edu/ah/confucius/docs/Confucius-Classroom.pdf.
[330] *Confucius Institute Application Procedure, Confucius Classrooms*, HANBAN, http://english.hanban.org/node_7879.htm.
[331] *Id.*
[332] Documents on file with Subcommittee (July 27, 2018).
[333] *Id.*
[334] *Id.*



Article 1 Character

The Confucius Classroom at [school name] shall be a non-profit institution with the purpose of enhancing understanding and friendship between the young people of China and [country name] by sponsoring the teaching and learning of Chinese language and culture.

Another agreement template published online calls the Classroom a "project" of the Confucius Institute and notes that the Confucius Institute will be "responsible for the management of the Confucius Classroom, including developing annual activity plans, budgets and final accounts for the Confucius Classroom and submitting to the Headquarters for approval."[335]

### C. Confucius Classroom Operations

Confucius Institutes may assist in the management and operation of affiliated local Confucius Classrooms. This can involve developing annual work plans, budgets, and final accountings—all of which is sent to Hanban for approval before funding is allocated.[336] While Hanban provides start-up funding for Confucius Classrooms, the pre-secondary school is expected to jointly contribute to the project fund as well.[337] Unlike Confucius Institutes, however, Confucius Classrooms typically do not have Boards of Directors.[338] The principal or vice principal is often responsible for overseeing the Confucius Classroom.[339] Below are two examples of how Confucius Classrooms may be organized and operated in the United States.

***First***, while many of the Confucius Classroom agreements contain nearly identical language, some U.S. schools inserted provisions that grant them more autonomy from their Confucius Institute partner. For instance, one Confucius Classroom contract retained final authority as to which activities it wishes to undertake in its Confucius Classroom.[340] The contract also asserts that the "Classroom will be wholly run and operated" by the local school and that the

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[335] Wayne State University, *Confucius Institute, Confucius Classroom Grant Information* (Jan. 15, 2019), http://www.clas.wayne.edu/ci/Confucius-Classrooms.
[336] Documents on file with the Subcommittee (July 27, 2018, Oct. 29, 2018).
[337] Documents on file with the Subcommittee (July 27, 2018, July 26, 2018, July, 19, 2018).
[338] Documents on file with the Subcommittee (July 27, 2018).
[339] *Id.*
[340] Documents on file with the Subcommittee (July 19, 2018).

Confucius Classroom "retains authority over its business decisions."[341] But such provisions are rare amidst the boilerplate language that makes up the majority of the contracts.

***Second***, a Confucius Institute that is one of the largest recipients of funds from Hanban focuses almost solely on managing a large number of Confucius Classrooms.[342] That Confucius Institute, in effect, serves as a clearing house for Hanban's Confucius Classrooms rather than as an on-campus center supplementing the U.S. school and community Chinese language and culture learning.[343] A U.S. school official working at that Confucius Institute informed the Subcommittee that the Confucius Classroom program started with 11 instructors from China and it now boasts 51 instructors spread across the state.[344] In fact, the U.S. school informed the Subcommittee that they place instructors in the language department the same way they place instructors at their affiliated K–12 Confucius Classrooms, essentially treating the Confucius Institute the same as any Confucius Classroom.[345]

## VI. THE STATE DEPARTMENT'S VISA REVIEWS OF U.S. CONFUCIUS INSTITUTES

The State Department conducts program field site reviews as a part of its regular monitoring activities of Exchange Visitor Program sponsors.[346] The State Department also provides guidance to U.S. schools on how to ensure their exchange visitor programs—including those connected with Confucius Institutes—comply with visa regulations. As part of its reviews, since 2017, the State Department has issued four Letters of Concern detailing instances of inappropriate visa use by U.S. schools related to Confucius Institutes. This section details the State Department's guidance, its field site reviews, and its four Letters of Concern all relating to Confucius Institutes at U.S. schools.

### A. State Department Guidance Concerning Confucius Institutes

In May 2012, the State Department issued "Guidance Directive 2012-06 Exchange Visitor Program - Confucius Institutes" to explain procedures for formalizing the visa status of Chinese language teachers in the United States.[347] Among other things, the State Department's 2012 directive outlined the differences

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[341] *Id.*
[342] Documents on file with the Subcommittee (Nov. 20, 2018).
[343] Interview Records on file with the Subcommittee (Jan. 7, 2018).
[344] *Id.*
[345] *Id.*
[346] *See* Background Section.
[347] U.S. State Dep't, Bureau of Educational and Cultural Affairs, Guidance Directive 2012-06, *Exchange Visitor Program – Confucius Institutes* (May 17, 2012, revised May 25, 2012).

between the Teacher and Research Scholar designations.[348] It further stated that U.S. school sponsors whose J-1 Professor and Research Scholars were teaching in public and private K–12 should contact the State Department.[349]

The Exchange Visitor Program categories have many distinctions.[350] For example, the "Professor" category is reserved for "bona fide exchange visitor exchange programs, which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting research institutions, corporate research facilities, museums, libraries, post-secondary accredited institutions, or similar types of institutions."[351] The "Teacher" category is reserved for "primary and secondary schools (K–12)."[352]

The State Department indicated it would work with sponsors to ensure exchange visitors were sponsored in the proper category with the appropriately designated sponsor.[353] The guidance also emphasized the importance of ensuring that the "site of activity for each exchange participant's record" in the Student and Exchange Visitor Information System ("SEVIS") so that each exchange visitor's "record reflects the actual location where the participants are placed."[354] This included the exchange visitor's initial placement, as well as any subsequent changes of location.[355]

### B. State Department Field Site Reviews of Confucius Institutes

In March 2017, State Department Bureau of Educational and Cultural Affairs ("ECA") officials conducting regular monitoring activities of a U.S. school's Confucius Institute received information indicating that some exchange visitors may be inappropriately using their J-1 Research Scholar visa.[356] Notably, however, the State Department does not collect information on the number of J-1 visas related to Confucius institutes or Hanban.[357] Additionally, the field review revealed that nine J-1 Research Scholars were teaching at pre-school and secondary schools, a possible violation of the terms of their visas.[358] Following this review, the State Department contacted similar U.S. school sponsors to confirm that other J-1

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[348] *Id.*
[349] *Id.*
[350] *Id.*
[351] *Id.*
[352] *Id.*
[353] *Id.*
[354] *Id.*
[355] *Id.*
[356] *See* CDP-2018-00005-00069-72.
[357] CDP-2018-00005-00170.
[358] CDP-2018-00005-00069.

exchange visitors' Confucius Institute activities are in accordance with federal regulations.[359]

As a result of these concerns, ECA contacted additional schools in 2018 to confirm that J-1 exchange visitors' Confucius Institute activities were in accordance with the exchange visitor category regulations. The State Department contacted U.S. schools hosting Confucius Institutes in Delaware, Colorado, Michigan, Ohio, Illinois, Georgia, Tennessee, Utah, and Virginia.[360] During the visits, ECA staff discovered that some Confucius Institutes were unclear about the proper uses of visas for Confucius Institute exchange visitors and required clarification.[361] As a result, the State Department conducted a field review at one additional U.S. school.[362]

### C. The State Department Issued Four Letters of Concern to U.S. Schools' Confucius Institutes

Since 2017, the State Department's Office of Private Sector Exchange Program Administration ("OPA") issued four Letters of Concern as a record of its reviews of Confucius Institute exchange visitor programs.[363] The Letters of Concern detail OPA's observations and make recommendations to help the U.S. schools identify areas for program correction or improvement. In two cases, the State Department revoked visas for Confucius Institute exchange visitors, as detailed below.[364]

***First Letter of Concern.*** On May 11, 2017, the State Department issued its Letter of Concern to a U.S. school that it deemed could be non-compliant with J-1 visa requirements. Specifically, the State Department found that Confucius Institute exchange visitors at the school were on J-1 Research Scholar visas, but were primarily teaching at pre-schools and secondary schools.[365] The Letter of Concern states, "[The Confucius Institute exchange visitors] are sponsored as Research Scholars, however the primary activity of several [Confucius Institute exchange visitors] was not research, rather they were teaching students aged 3-17 at preschools and secondary schools."[366] In addition, those exchange visitors were often unaccompanied in the classroom, a situation that the State Department believed "could possibly put the health, safety, and welfare of students at risk."[367]

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[359] State Department production (Aug. 14, 2018).
[360] *Id.*
[361] *Id.*
[362] State Department production (Feb. 7, 2019).
[363] *Id.* State Department production (Aug. 14, 2018).
[364] *Id.*
[365] CDP-2018-00005-00155.
[366] *Id.*
[367] *Id.*

The State Department also found allegations of "fraudulent paperwork and coaching" prior to the review.[368] According to the field site review, an anonymous individual told the State Department that the exchange visitors' research topics "were devised by the [Confucius Institute] co-director ... as a deliberate attempt to deceive the [State] Department regarding the exchange visitors' activities."[369] The State Department found additional evidence that the Confucius Institute's Chinese co-director "conducted rehearsal interviews with the exchange visitors to practice discussing their research topics in advance of ECA's review."[370]

After its review, the State Department revoked 13 J-1 visas in response to its findings, but allowed the school to maintain its authorization to sponsor J-1 visa holders.[371] It also recommended that the school: Review its Confucius Institute research objectives; discuss its Confucius Institute activities in future reports to the department; review its Confucius Institute's advertising material so that its activities are clear to exchange visitors, prospective exchange visitors, and host employers; and, finally, to take steps to ensure all exchange visitors are in the appropriate visa categories.[372] School officials informed the Subcommittee that it no longer places exchange visitors in preschool or secondary schools and instituted a policy restricting all current exchange visitors from working off school property without permission from the school.[373] The U.S. school also requires monthly reports from its exchange visitors on their research and other activities.[374]

***Second and Third Letters of Concern.*** On June 29, 2018, the State Department issued two separate Letters of Concern to two separate U.S. schools after finding that Confucius Institute exchange visitors with a J-1 Professor visa were performing duties inconsistent with the sponsors' designation.[375] Specifically, at both U.S. schools, the State Department found the Confucius Institute exchange visitors were performing administrative tasks and not teaching, lecturing, or consulting as required under the terms of the visa. The State Department recommended that both U.S. schools "ensure that the primary activity of exchange visitors sponsored under the Professor category is teaching, lecturing, observing, or consulting at post-secondary accredited academic institutions."[376] The first school changed the professor's title, aligned the professor's duties with the requirements of

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[368] CDP-2018-00005-00070.
[369] *Id.*
[370] *Id.*
[371] CDP-2018-00005-00069.
[372] CDP-2018-00005-00156-158.
[373] Interview Records on file with the Subcommittee (Jan. 8, 2019).
[374] *Id.*
[375] CDP-2018-00005-00109. CDP-2018-00005-00159.
[376] CDP-2018-00005-00110. CDP-2018-00005-00160.

their visa, and hired someone to perform the administrative tasks the professor was handling.[377] The second school eliminated the position the professor was filling after the professor's tenure ended; the professor returned to China shortly after the school received the letter.[378]

***Fourth Letter of Concern.*** On August 22, 2018, the State Department issued its fourth Letter of Concern related to potential visa violations, describing how J-1 Research Scholars at another U.S. school were primarily teaching at K–12 schools in a Confucius Classroom.[379] The State Department found that "Although the exchange visitors may be conducting research, it is also evident that they are teaching."[380] Additionally, as the lead American instructors at the K–12 schools did not speak Mandarin, the State Department wrote, "So even when a Lead Teacher is present in the classroom, he/she cannot evaluate the information the [Confucius Institute] exchange visitors are teaching to the minors and must temporarily place the students' learning experience completely in the hand of the [Confucius Institute] exchange visitors."[381] The State Department indicated that it thought "some Confucius Institutes may deliberately seek to circumvent the Teacher category because of its stricter qualifications, including the required minimum number of years of previous teaching experience and/or degrees in education or in an academic subject matter that the exchange visitor will teach."[382]

As such, the State Department required the U.S. school remove the researchers from their K–12 teaching positions; ensure that any researchers remaining in K–12 schools or local boards of education are performing research and not teaching; enhance its monitoring of all Confucius Institute exchange visitors to ensure that the activities they engage in are consistent with the requirements of their visa.[383] Following its letter, the State Department prudentially revoked 19 visa and confirmed that the U.S. school had removed the exchange visitors from the K–12 classrooms and confirmed their departure from the United States.[384]

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[377] Interview Records on file with the Subcommittee (Feb. 7, 2019).
[378] *Id.*
[379] CDP-2018-00005-00555.
[380] CDP-2018-00005-00556.
[381] *Id.*
[382] CDP-2018-00005-00563.
[383] CDP-2018-00005-00556.
[384] CDP-2018-00005-00562. Email from State Dep't, Legislative Affairs (Feb. 21, 2019).

### D. The State Department's 2019 Plans to Review U.S. Confucius Institutes

In 2019, the State Department plans to conduct a total of four reviews regarding Confucius Institutes and U.S. schools' visas.[385] According to the State Department, this is double the number of reviews it completed in 2018.[386]

## VII. DEPARTMENT OF EDUCATION REPORTS FAIL TO PROVIDE AN ACCURATE PICTURE OF CHINA'S SPENDING ON U.S. CONFUCIUS INSTITUTES

Spending data published by the Department of Education fails to provide an accurate or complete picture of China's overall spending on Confucius Institutes in the United States. Federal law requires educational institutions that participate in Title IV student assistance programs to submit foreign financial disclosure reports to the Department of Education.[387] Those reports must document all gifts and contracts in excess of $250,000 from any foreign source.[388] The Subcommittee's investigation demonstrates that nearly 70 percent of U.S. schools that received more than $250,000 from Hanban failed to properly report that information to the Department of Education. Foreign government spending on U.S. schools is effectively a black hole, as there is a lack of reporting detailing the various sources of foreign government funding.

The reports that U.S. schools did file provide an incomplete picture of Hanban's overall spending in the United States. From January 2012 to June 2018, fifteen U.S. schools reported receiving $15,472,725 directly from Hanban.[389] To get a more comprehensive understanding of Hanban's spending in the United States, the Subcommittee requested financial records from 100 U.S. schools that have either had or have a Confucius Institute. According to those records, during that same time, Hanban directly contributed $113,428,509 to U.S schools—more than seven times the amount U.S. schools actually reported.[390] In total, since 2006,

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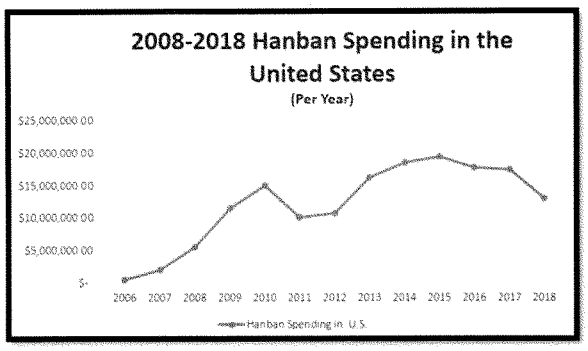
[385] Production from the State Department (Feb. 7, 2019). Interview with State Department officials (Feb. 11, 2019).
[386] *Id.*
[387] Title IV student assistance programs and provisions can provide federal financial aid to assist students in gaining access to and financing higher education. 20 U.S.C.A. § 1011f.
[388] U.S. Dep't of Education, Foreign Schools Gift and Contracts Report with Date Range 01/01/2012 to 06/30/2018, Presecondary Education Participation System 10/12/2018. [*Hereinafter* FOREIGN GIFT REPORT]. The FOREIGN GIFT REPORT only provide foreign gift reports from January 1, 2012 to June 30, 2018.
[389] FOREIGN GIFT REPORT.
[390] Documents on file with the Subcommittee.

Hanban contributed roughly $158,429,866 to U.S. schools to fund Confucius Institutes.[391]




Moreover, this total is only a fraction of what Hanban spent administering the program globally. According to Hanban's annual reports, it spent more than $2 billion worldwide over the lifespan of the Confucius Institute program from 2008 to 2016.[392] Under current federal law, however, the U.S. government publishes very little information detailing China's spending with U.S. schools.

### A. Department of Education Reporting Requirements

Federal law requires all two-year and four-year post-secondary schools to report foreign sources of funding in excess of $250,000 per year.[393] Those same schools must also disclose all contracts with or gifts from the same foreign source that, alone or combined, have a value of $250,000 or more within a calendar year.[394] A foreign source, defined by the Department of Education, is a foreign government, including an agency of a foreign government; a legal entity created solely under the laws of a foreign state or states; an individual who is not a citizen or national of the United States; or an agent acting on behalf of a foreign source.[395] A gift is considered any gift of money or property.[396] A contract is any agreement for the

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[391] *Id.*
[392] *See* Confucius Institute Annual Development Reports from 2008-2017.
[393] 20 U.S.C.A. § 1011f. *See also* U.S. Dep't of Education, *Consumer Information and School Reporting*, 2-180 (June 2017), https://ifap.ed.gov/fsahandbook/attachments/1718FSAHbkVol2Ch6.pdf.
[394] *Id.*
[395] *Id.*
[396] 20 U.S.C.A. § 1011f(h)(3).

"acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties."[397]

A U.S. school—and "each campus of a multi-campus school"—must report this information if it:

- Is legally authorized to provide a program beyond the secondary level within a state.
- Provides a program that awards a bachelor's degree or a more advanced degree, or provides at least a two-year program acceptable for full credit toward a bachelor's degree.
- Is accredited by a nationally recognized accrediting agency.
- Is extended any federal financial aid (directly or indirectly through another entity or person) or receives support from the extension of any such federal assistance to the school's subunits.[398]

A U.S. school must report this information by January 31 or July 31—whichever is sooner—after the date of receipt of the gifts, date of the contract, or date of ownership or control.[399] The January 31 report should cover the period July 1–December 31 of the previous year, and the July 31 report should cover January 1–June 30 of the same year.[400]

If a school fails to comply with the requirements of this law in a timely manner, the Justice Department is authorized to initiate a civil action in federal district court to ensure compliance at the request of the Secretary of Education.[401] Following a determination that a school knowingly or willfully failed to comply, a school must reimburse the U.S. government for the cost of obtaining compliance.[402] The Justice Department told the Subcommittee that it had no records showing the Secretary of Education ever referred a case.[403]

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[397] 20 U.S.C.A. § 1011f(h)(1).
[398] 20 U.S.C.A. § 1011f(h)(4).
[399] U.S. Dep't of Education, *Consumer Information and School Reporting*, 2-180 (June 2017), https://ifap.ed.gov/fsahandbook/attachments/1718FSAHbkVol2Ch6.pdf.
[400] *Id.*
[401] *Id.* at 2-181.
[402] *Id.*
[403] Email from Dep't of Justice, Attorney Adviser, Office of Legislative Affairs (Feb. 22, 2019).

In 2004, the last time the Department of Education issued any guidance on foreign gift reporting, the Department posted a letter to "remind[s] institutions of the statutory requirement that they report gifts received from or contracts entered into with foreign sources, and ownership or control of institutions by foreign entities."[404] Specifically, the guidance clarifies the appropriate steps a U.S. school must take when reporting figures. For example, the Department provided additional information on the conditions of reporting, contents of reports, and potential penalties if a school did not report gifts received. This letter also included a "Questions & Answers" section to provide details about the reporting requirements and the process developed by the Department to collect all relevant information.[405]

### B. U.S. Schools' Reporting of Confucius Institute Gifts

The Department of Education publishes the foreign gift data it receives from universities in a spreadsheet it calls the "Foreign Gift and Contract Report."[406] This spreadsheet contains all the contracts and gifts reported to the Department of Education from January 1, 2012 to June 30, 2018.[407] According to the available data, roughly 149 U.S. colleges reported over 18,388 separate foreign gifts or contracts during that time.[408] Of those 18,388 individual reports over the same time period, approximately 1,297 indicate China as the "country of giftor."[409] And of those 1,297 reports attributable to China, fifteen U.S. institutions reported 90 separate gifts specifically linked to the "Confucius Institute Headquarters" or Hanban.[410] Those 90 gifts attributed to Confucius Institutes from January 2012 through June 2018 totaled $15,472,725.[411]

Some publicly available examples of Confucius Institute reporting include:[412]

- The University of Illinois at Urbana-Champaign reported a $252,253 "monetary gift" from Hanban on April 4, 2016.

- Bryant University reported receiving $951,349 in "monetary gifts" from December 2001 to January 2017 from Hanban.

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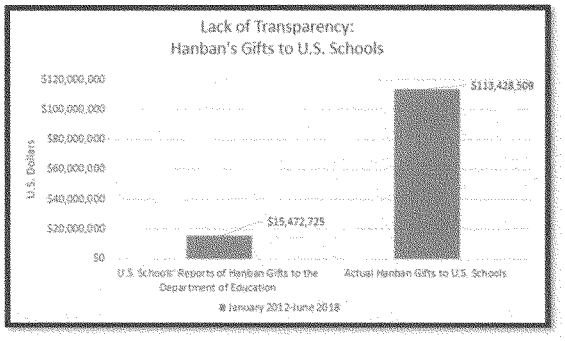
[404] U.S. Dep't of Education, Federal Student Aid, *Reporting of Foreign Gifts, Contracts, and Relationships by Institutions*, GEN-04-11 (Oct. 4, 2004), https://ifap.ed.gov/dpcletters/GEN0411.html.
[405] *Id.*
[406] FOREIGN GIFT REPORT.
[407] *Id.*
[408] *Id.*
[409] *Id.*
[410] *Id.*
[411] *Id.*
[412] *Id.*

- The University of New Hampshire reported a $264,280 "monetary gift" from Hanban on August 1, 2016.

- Emory University reported a $140,767 "contract" with Hanban on April 8, 2013. Emory also reported a $219,483 "contract" with Hanban on August 1, 2012.

- The George Washington University reported $1,388,744 in contracts with Hanban.

In the aggregate, however, the publicly reported figures submitted to the Department of Education only provide a fraction of China's overall spending on Confucius Institutes. While U.S. schools reported gifts or contracts worth $15,472,725 from January 2012 to June 2018, Hanban is estimated to have spent approximately $113,428,509 in the United States during that same time period.[413] The chart below shows the difference between the information reported by U.S. schools to the Department of Education and the actual total amount Hanban contributed to U.S. schools.[414]




The discrepancies between the amounts reported by U.S. schools and the amount Hanban actually gave them is attributable to both the $250,000 threshold and U.S. schools' failure to properly report. The Subcommittee found that over half of Hanban's annual payments since 2012 were under the $250,000 reporting requirement threshold.[415] As such, these schools are not currently obligated to report any funds received for a given year to the U.S. government. The more

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[413] *See* FOREIGN GIFT REPORT.
[414] Documents on file with the Subcommittee. FOREIGN GIFT REPORT.
[415] Documents on file with the Subcommittee.

concerning issue, however, as detailed below, is that 69 percent of U.S. schools failed to properly report information to the Department of Education as required.

### C. U.S. Schools Failed to Properly Report Confucius Institute Gifts to the Department of Education

U.S. schools routinely failed to report Confucius Institute funding to the Department of Education as required by law. According to information reviewed by the Subcommittee, 33 of 48—69 percent—of U.S. schools required to file reports with the Department of Education failed to report Hanban gifts, contracts, or contributions in excess of $250,000.[416] From 2012 to 2018, U.S. schools should have reported $51,526,181 to the Department of Education.[417] But according to the Department of Education Foreign Schools Gift and Contract Report, U.S. schools failed to report $36,089,456 that they were required to by law.[418]

The Subcommittee also learned that some U.S. schools failed to report gifts made by Hanban and other foreign donors when they were made to the schools' Confucius Institute non-profit foundation and endowment. Below are three examples of U.S. schools failing to report, what they failed to report, and the reasons for their failure. In all three cases, the schools told the Subcommittee they plan to refile correct reports.

***First***, one U.S. school improperly reported funds received from Hanban over the past several years. This school received more than $400,000 in 2014 and $1,000,000 in 2015, but failed to report either contribution.[419] School officials later informed the Subcommittee that it did not have a designated office to file foreign gift reports and that it was in fact not aware of the reporting requirements.[420] Those officials informed the Subcommittee that it intends to submit filings to the Department of Education reporting Hanban's gifts and contracts.[421]

***Second***, another U.S. school did report receiving more than $1.1 million from Hanban, but the school received more than $1.5 million from Hanban. In an interview with the Subcommittee, school officials explained that the school's financial aid office and the Department of Education had differing interpretations of a "contract" and an "agreement."[422] The officials indicated that it was an accounting

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[416] *Id.*
[417] *Id.* The U.S. Department of Education does not keep electronic records before January 2012. Email from Legislative Affairs Specialist, U.S. Department of Education (Jan. 9, 2019).
[418] *Id.* FOREIGN GIFT REPORT.
[419] Documents on file with the Subcommittee (July 27, 2018).
[420] Interview Records on file with the Subcommittee (Nov. 13, 2018).
[421] *Id.*
[422] Interview Records on file with the Subcommittee (Nov. 6, 2018).

issue that characterized their relationship with the Confucius Institute as an "agreement" rather than a "contract," creating discrepancies in what funds needed to be reported.[423] Those officials also informed the Subcommittee that they recently performed an audit of these contracts and submitted updated information to the Department of Education.[424]

***Third***, according to the Department of Education's records, a third U.S. school filed one foreign funding report noting that the Confucius Institute supplied a contract worth more than $500,000.[425] Documents reviewed by the Subcommittee, however, indicate several annual gifts or contracts in excess of the $250,000 reporting threshold, as shown below.[426] Those officials subsequently explained to the Subcommittee that the school incorrectly reported the amount of foreign gifts to the Department of Education and that it would file an amended report.[427] The third U.S. school also failed to properly report Hanban contributions to the school's foundation. Hanban contributed $280,297 in 2016 and $270,079 in 2017 to the U.S. school's foundation fund.[428] The Department of Education, however, told the Subcommittee that contributions made by a foreign entity to a foundation controlled by the school must still be reported.[429]

### D. Hanban Spent More than $2 Billion on Confucius Institutes Worldwide

Hanban's own reports do provide some spending data on Confucius Institutes and Classrooms worldwide. Hanban publishes an annual report that details the total international spending for Confucius Institutes around the world. Though these reports lack granular spending data on specific Institutes or Classrooms and their locations, they do provide a more complete picture of Hanban's overall budget. While not segmented by country, their annual reports include information on salaries and housing costs for Confucius Institute instructors and directors that are typically not captured in Hanban's gifts directly to schools.

| Year | Global Hanban Spending |
|---|---|
| **2008** | $120,018,000 |
| **2009** | $179,816,000 |
| **2010** | $137,761,000 |
| **2011** | $164,103,000 |

[423] *Id.*
[424] *Id.*
[425] *Id.*
[426] Documents on file with the Subcommittee (Oct. 3, 2018, July 23, 2018).
[427] *Id.*
[428] Documents on file with the Subcommittee (Oct. 3, 2018).
[429] Email from Legislative Affairs Specialist, U.S. Dep't of Education (Oct. 16, 2018).

| | |
|---|---|
| **2012** | $196,330,000 |
| **2013** | $291,000,000 |
| **2014** | $300,000,000 |
| **2015** | $310,854,000 |
| **2016** | $314,116,000 |
| **2017** | N/A |
| **2018** | N/A |
| **TOTAL:** | **$2,001,634,000** |

As shown above, according to these annual reports, Hanban spent over $2 billion on Confucius Institutes worldwide. Hanban did not publish spending data for 2017 and 2018.[430]

## VIII. CHINESE INTERFERENCE WITH U.S. SCHOOLS IN CHINA

While China plays a role in Chinese language and cultural education in the United States through its Confucius Institutes and Confucius Classrooms, it routinely and systematically works to thwart efforts by the U.S. State Department and U.S. schools to promote American culture in China. Chinese pressure has been particularly effective in prohibiting the successful administration of the U.S. State Department's American Cultural Center ("ACC") program. In 2010, the State Department provided funding for a network of ACCs that aimed to provide community spaces on Chinese campuses for "interactions that enable Chinese audiences to better understand the United States, its culture, society, government, language, law, economic system, and values."[431] The ACC program was hindered from the start—7 of 29 ACCs never opened despite receiving funding and the State Department stopped funding the program altogether in 2018.

Chinese interference extends beyond the obstruction of the ACC program. The Chinese government, including individuals from the Ministry of Education and local provincial government officials, routinely restricted the movement of U.S. diplomats seeking to attend and speak at conferences and public events. China has even prevented U.S. diplomats from visiting ACCs. Chinese interference resulted in the cancellation of several significant public diplomacy conferences and events outright, often just days before an event was to take place. The State Department documented at least 80 examples of Chinese interference in American public diplomacy efforts from January 2016 to the date of this report.[432] Put simply, as the State Department stated in an internal memo, "Our American Cultural Centers do

[430] Hanban Annual Reports. Hanban did not publish spending data for 2017 or 2018.
[431] U.S. State Dep't, EAPBJ-16-GR-002-EAP-051616, Public Affairs Section, U.S. Embassy Beijing, *New American Cultural Centers and Cultural Programming in the People's Republic of China*, 2 (July 2016).
[432] CDP-2018-00005-00019–00045.

not enjoy reciprocal access at universities in China."[433] One of the most significant reports of interference, detailed further in this section, resulted in the detention and questioning of an American citizen by Chinese police.

### A. Chinese Obstructionism Led the State Department to Create the ACC Program in China

The State Department initially launched the ACC program to counter China's efforts to block the expansion of a similarly named but different program called "American Spaces." In 2010, American Spaces were the largest and most formal public diplomacy platforms outside the United States—"often stand-alone facilities, which combine a library, Internet stations, meeting spaces and often English language classrooms."[434] By 2011, China had established more than 71 Confucius Institutes in the United States, while at the same time, prevented the State Department from opening more than five American Spaces in China outside of the U.S. embassy or consulates.[435] At that time, the five American Spaces were located in Beijing, Chengdu, Guangzhou, Shenyang, and Shanghai.[436] According to a 2011 U.S. Senate Committee on Foreign Relations Minority Staff Report, "The Chinese government has been resistant to any further opening of U.S. public diplomacy facilities, claiming that each country has six diplomatic facilities in the other's country and that this is a matter of strict reciprocity."[437]

Gary Locke, at his nomination hearing to be U.S. ambassador to China, indicated that he shared the Committee's concerns involving "the obstacles [State] faced in establishing [American Spaces] in China."[438] He also admitted that those barriers "effectively prevented" the expansion of public diplomacy efforts in China.[439]

In an attempt to find alternatives to Chinese disruption of American Spaces, the State Department launched the ACC program. ACCs, as the State Department detailed in a submission to the U.S. Senate Foreign Relations Committee in 2010, were the next choice:

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[433] CDP-2018-00005-00002.
[434] U.S. Senate, Comm. on Foreign Relations, *Another U.S. Deficit—China and America—Diplomacy in the Age of the Internet*, 7 (Feb. 15, 2011) (minority staff report).
[435] *Id.*
[436] *Id.*
[437] *Id.* at 8.
[438] *Nominations of the 112th Congress—First Session: Hearing Before the Senate Foreign Relations Comm.* of the U.S. Senate, 112th Con. 112-399, 241 (May 26, 2011) (Questions for the record, Gary Locke, U.S. Amb. to China).
[439] *Id.*

> There are, however, alternative methods of creating places for Chinese audiences to learn about the United States and several options are being vigorously pursued. Recently, a number of U.S. universities such as Arizona State University, New York University, and University of Southern California, have entered into partnerships with Chinese universities to establish university-sponsored American Cultural Centers on Chinese campuses. This is an encouraging trend. The Department hopes to see the establishment of additional American Cultural Centers in China.[440]

In order to "vigorously pursue" the expansion of the ACC program, the State Department needed to solicit funding applications from U.S. colleges and universities. The 2011 Request for Application ("RFA")—the State Department's formal document soliciting applications—stated that the "U.S.-China relationship is one of the United States' most important bilateral relationships."[441] The RFA continued, "A great deal of work remains to be done in fostering mutual understanding between the peoples of the two nations. The Chinese government's creation in the United States of multiple university-based 'Confucius Institutes' has increased the level and quality of the study of Chinese language and culture in the U.S."[442] The State Department then sought out American colleges willing to open an ACC.

The typical ACC grant provided a one-time award of $100,000, after which the grantees could request supplementary funds.[443] Since the program's origination in 2010, the State Department disbursed $5.1 million in grants to support 29 ACCs between U.S. educational institutions and Chinese universities.[444]

In comparison, since 2006, China spent more than $158 million on Confucius Institutes located in the United States.[445] As of this report, there are roughly 100 U.S. Confucius Institutes—the State Department, on the other hand, stopped funding ACCs in China.[446] In October 2018, the State Department ceased all ACC

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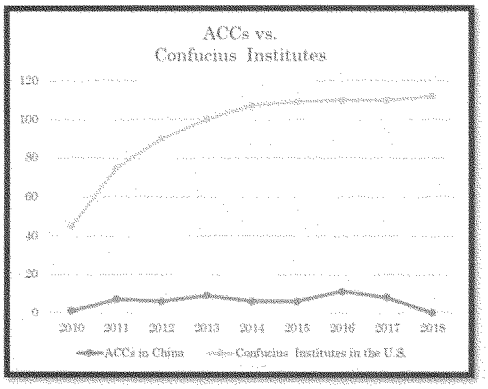
[440] *Id.*
[441] U.S. State Dep't, EAPBJ-11-AW-001-EAP-070611, Public Affairs Section, U.S. Embassy Beijing, *American Cultural Centers and Cultural Programming in the People's Republic of China*, 3 (Aug. 2011).
[442] *Id.*
[443] *Id.*
[444] U.S. Dep't of State, ISP-I-18-04, Office of Inspector General, *Inspection of Embassy Beijing and Constituent Posts, China*, 9 (Dec. 2017).
[445] *See* Section VI. Spending Data Published by the Department of Education Fails to Provide Accurate Confucius Institutes Spending.
[446] PETERSON REPORT at 24.

funding while it undertook a review of the effectiveness of the program.[447] The chart on the next page shows the disparity between the number of Chinese government-funded Confucius Institutes in the United States and the number of State Department-funded ACCs in China.[448]




### B. The State Department Does Not Exert the Same Control over American Cultural Centers as the Chinese Government Exerts over Confucius Institutes

There are two material differences between Confucius Institutes and ACCs. These differences are important as the State Department lacks the level of control Hanban wields over its Confucius Institutes. ACC grants were typically one-time awards to get the ACC off the ground and fund the renovation of a room or space on a Chinese school campus.[449] Hanban, on the other hand, provides fee-for-service and annual funding for Confucius Institutes. After the grant period ended, U.S. schools were no longer required to submit progress or status reports to the State Department.[450]

The State Department also took a "hands off" approach with programming at ACCs and did not significantly control the direction of events or speakers.[451] According to Lisa Heller, the Senior Cultural Affairs and later the Public Affairs

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[447] Briefing with Lisa Heller, U.S. State Dep't, Director of the Office of Public Diplomacy, Bureau of East Asian and Pacific Affairs (Sept. 13, 2018) [*hereinafter* Heller Interview (Sept. 13, 2018)].
[448] CDP-2018-00005-00007–00018; *See Confucius Institute Annual Development Report 2008-2017.*
[449] Heller Interview (Sept. 13, 2018).
[450] *Id.*
[451] *Id.*

Officer in Beijing from 2012-2016, Confucius Institutes and ACCs were materially different.[452] For example, unlike Hanban and the Confucius Institutes, the State Department did not pay the salaries of the visiting professors, did not vet or approve the professors, and, importantly, did not approve the ACC programming.[453] Moreover, in contrast to Hanban, the State Department did not prohibit certain topics or issues for discussion.[454] Finally, the State Department did not routinely purchase textbooks, materials, or videos for ACCs. Those items and other teaching materials were usually purchased directly by the U.S. school.[455]

### C. Despite Receiving Funding, Seven American Cultural Centers Never Opened

Despite receiving hundreds of thousands of dollars from the State Department, at least seven ACCs sponsored by U.S. schools were unable to ever open due to Chinese interference. This section examines three U.S. schools that received the grant funding, but were unable to open due to intentional delays and local government pressure. The map on the following page shows the locations of the ACCs that were supposed to have opened and never did (red dots) and also the now-closed ACCs (yellow dots).[456]

[452] *Id.*
[453] *Id.*
[454] *Id.*
[455] *Id.*
[456] CDP-2018-00005-00007–00018.

***First***, the State Department notified a U.S. school that it was selected for the ACC grant in 2014.[457] The U.S. school planned to spend the $99,999 it received to promote American films and music at its partner school in China.[458] The initial efforts to negotiate the terms of the arrangement between the schools were successful—the Chinese school even reserved a space in a prominent campus building and arranged a signing ceremony. It became clear, however, that China's Ministry of Education put forth insurmountable roadblocks that ultimately killed the arrangement altogether.

While several Chinese school officials were on their way to the United States, in part to sign the agreement, the U.S. school received an urgent message from Chinese school officials with proposed revisions to the agreement.[459] Those U.S. schools officials scrambled over the weekend to work out an agreement and preserve the signing ceremony, but identified major concerns with the Chinese school's proposals. Among the concerns the official had were there was a restriction that the ACC could only provide "Chinese appropriate material," there was a lack of certainty regarding U.S. Embassy access to the ACC, and there was a requirement that the final agreement be approved by China's Ministry of Education.[460]

Eventually, Chinese school officials told U.S. school officials that it was no longer interested in hosting the ACC. One Chinese school official wrote, "Presently, we have quite a few centers at our university. Truth be told, it is a little disappointing that some centers haven't made progress in joint research or student education." That same official concluded the email, "[the Chinese school] doesn't see there is a need of setting up another center at this point of time."[461] At least one U.S. school official, however, believed China's Ministry of Education told the partner school not to proceed with the contract. This official wrote in an email to his colleagues, "This is a typical Chinese political euphemism. Obviously, [the Chinese school] was instructed by [the Ministry of Education] not to proceed with our proposal."[462] As a result, the U.S. school did not spend any of the grant funding and returned it all to the State Department in 2015.[463]

***Second,*** the State Department awarded a U.S. school $99,717 in mid-2014.[464] Despite the U.S. school's best efforts, including a faculty trip to China, the

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[457] Documents on file with the Subcommittee (Nov. 14, 2018).
[458] Interview Records on file with the Subcommittee (Jan. 8, 2019).
[459] *Id.*
[460] *Id.*
[461] *Id.*
[462] *Id.*
[463] CDP-2018-00005-00011.
[464] CDP-2018-00005-00014.

university was not able to open an ACC on its Chinese partner school's campus.[465] According to university officials, Chinese interference started almost immediately.[466] For example, after the State Department awarded the grant, two university faculty members traveled to China with "the intent of finalizing the plans for setting up the American Cultural Center."[467] At the first joint planning meeting, Chinese school officials informed them "that the Center would have to be put 'on hold.' They gave no explanation."[468] Chinese school officials also "disinvited the local Department of State delegation to this meeting."[469]

After months without any significant progress, U.S. school officials "made numerous attempts to contact [the Chinese school] regarding the ACC. Any inquiries we made as to when we could possibly start the Center were met with 'It is still on hold.'"[470] The final status report submitted by the university to the State Department described the final shutdown of the ACC efforts:

> The dismaying news that the plans had been scuttled, then, was delivered to us at the very last minute. It seems that miscommunications between officials at [the Chinese school] and the provincial government had led to the delays and finally to the decision to withdraw their invitation to us to locate an ACC on their campus.[471]

The U.S. school's then-department chair involved with this grant explained to the Subcommittee that after all of the delays, it was clear the ACC was never going to work.[472] That same official told the Subcommittee that "the bottom line is that it was politics."[473] Eventually, the U.S. school simply stopped trying to open the ACC and eventually returned the unused funds to the State Department.[474]

***Third***, in 2014, the State Department awarded the U.S. school $100,000 to open an ACC on Chinese school's campus in northeast China. According to U.S. school officials, there were difficulties from the start in trying to open and establish the ACC.[475] For example, Chinese school officials did not provide timely responses and there was a lack of communication between the two schools. After months of

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[465] Interview Records on file with the Subcommittee (Aug. 29, 2018).
[466] *Id.*
[467] Documents on file with the Subcommittee (Sept. 17, 2018).
[468] *Id.*
[469] *Id.*
[470] *Id.*
[471] *Id.*
[472] Interview Records on file with the Subcommittee (Sept. 4, 2018).
[473] *Id.*
[474] *Id.*
[475] *Id.*

negotiation and delays, U.S. school officials simply made the determination that the project was not going to move forward.[476]

Those same officials speculated that something political was going on behind the scenes and that the Chinese school officials "got cold feet," suddenly no longer feeling comfortable with establishing the ACC on campus.[477] U.S. school officials reported that the U.S. and Chinese schools had a great relationship both before and after the failure to launch the ACC.[478] The only program between the two schools that was unable to get off the ground was the ACC program—which coincidentally was also the only program that included funding from the U.S. government.[479]

### D. The State Department Stopped Funding All American Cultural Centers

Some American colleges and universities were able to launch their respective ACCs and conduct programming for several years. The programming, however, was limited to cultural activities with a focus on the arts. And, even under those limits, the American colleges even had difficulty getting approval for benign events such as hosting a jazz band. In many cases, the Chinese university would simply delay approving a proposed event or speaker without ever giving official justification or rationale. In at least one case detailed to the Subcommittee, the approval of the local Chinese communist party was needed before cultural events could take place on a Chinese campus. This section details the obstruction and interference of three ACCs after opening.

***First***, a U.S. school used its $100,000 grant from the State Department to create an ACC at its Chinese partner school, with which it has had a 30-year relationship. The ACC, housed at the foreign language building, included a lounge, kitchen, and resource library, complete with a large selection of American cookbooks.[480] There were complications in getting permission to approve events and speakers for the several years the U.S. school sponsored the ACC in China.[481] For example, the Chinese school turned down the opportunity to host a gathering of Directors from all ACCs and representatives from international offices of participating universities. According to a status report submitted to the State Department, "This would have been a great opportunity to showcase the longstanding partnership between [the U.S. and Chinese schools], as well as the

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[476] *Id.*
[477] *Id.*
[478] *Id.*
[479] *Id.*
[480] Interview Records on file with the Subcommittee (Aug. 14, 2018).
[481] *Id.*

progress on the ACC space. However, we were told getting permission from the Chinese government in a timely fashion [ ] was not possible."[482]

In addition to approval complications, one particular program was cancelled entirely. In 2015, the U.S. school planned to host a one-man show about the life and times of Muhammad Ali. The Chinese school did not grant permission and the event did not happen. A U.S. school official responsible for the ACC grant wrote to the State Department, "It was disappointing that [the Chinese school] could not host us but totally understandable. It is a nuanced political climate we operate in and I will reach out to them one more time in case they can host us."[483] Finally, according to a U.S. school official who worked directly on the ACC grant, the programs were successful, but officials were careful not to "promote American culture too much."[484] That same official indicated they could never do a program on Tibet or Taiwan as they wouldn't even think of proposing something like that.[485]

***Second***, the State Department awarded a different U.S. school $98,661 in 2016 to open an ACC at its Chinese partner school.[486] This U.S. school also had a Confucius Institute at its U.S. campus.[487] According to U.S. administrators, the U.S. constructed its ACC in a large room on campus.[488] A plaque outside the ACC read, "The Sino-American Cultural Exchange Center."[489] The U.S. school planned to film various lectures in the United States and then show those lectures to students at the ACC. The lecture series "focused on problems and challenges in American society," including "capitalism in the United States," "gun control and gun rights," and finally "issues relating to gender and sexuality."[490] Additional lectures that were planned but never filmed included topics on globalization and health care.[491] While most of the lectures were filmed, they were never shown on the Chinese partner's campus as the school never gave permission.[492]

The U.S. school also had difficulty arranging visits from the U.S. embassy staff, including Ambassador Terry Branstad, to the ACC.[493] In 2018, U.S. school officials told the State Department, "The most significant issue we are facing at this time is the inability to arrange a successful visit to the Sino-American Cultural

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[482] Documents on file with the Subcommittee (Oct. 2, 2018).
[483] *Id.*
[484] Interview Records on file with the Subcommittee (Aug. 14, 2018).
[485] *Id.*
[486] CDP-2018-00005-00007–8.
[487] Interview Records on file with the Subcommittee (Oct. 31, 2018).
[488] Interview Records on file with the Subcommittee (Oct. 31, 2018).
[489] *Id.*
[490] Documents on file with the Subcommittee (Oct. 29, 2018).
[491] Interview Records on file with the Subcommittee (Oct. 31, 2018).
[492] *Id.*
[493] *Id.*

Exchange Center for U.S. Embassy staff. We have received conflicting information from our partner regarding the status of the space allocated for the Center."[494] When Ambassador Branstad tried to visit the ACC, the U.S. school was not able to secure the proper permission and nearly shut down the ACC altogether. China's Ministry of Education even questioned the Chinese partner school's officials and indicated that they did not follow proper procedures as the ACC was funded by the U.S. government.[495] U.S. school officials further described the trouble with the ACC in a May 2018 email to the State Department:

> [The Chinese school] will have to keep the center quiet for a period of time and remove the plaque from the center temporarily. Therefore, the backup plan I discussed with them is to keep the center [functioning] as a resource room with all the lectures and books we provided available for students and faculty there. However, this will also not be done right away in order to avoid unnecessary attention at this sensitive time period.[496]

A State Department official replied back, "Since it appears that [the Chinese school] is putting the center on hiatus until this 'sensitive time' concludes, we would like to hold further disbursements pending a reopening of the space as well as a realistic grant monitoring plan."[497] As of this report, the ACC remained closed.

***Third***, a different U.S. school obtained an ACC grant from the State Department in 2011.[498] The U.S. school successfully established the ACC as part of the on-going affiliation with its Chinese partner school.[499] For several years, the ACC sponsored fruitful events, hosting a range of speakers, musicians, and other cultural activities.[500] All that changed, however, in late 2015, when the Chinese police interrogated a U.S. school's dean about her involvement with the ACC and the U.S. State Department.[501]

The dean joined the U.S. school in 2012 and was dean of the Chinese campus and executive director for the school's programs throughout China.[502] The dean told the Subcommittee that while her program was able to accomplish a lot with the State Department grant, it was difficult to get approval for certain events and

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[494] Documents on file with the Subcommittee (Oct. 29, 2018).
[495] *Id.*
[496] CDP-2018-00005-00055.
[497] CDP-2018-00005-00054.
[498] CDP-2018-00005-00274.
[499] *Id.*
[500] Interview Records on file with the Subcommittee (Oct. 16, 2018).
[501] *Id.*
[502] *Id.*

activities.[503] She indicated that the Chinese school's approval process was difficult to navigate and that it even stopped certain programming because permission took so long to obtain.[504] Members of the local Chinese Communist Party also participated in the approval process.[505] For example, the dean said that there was a weekly planning meeting with U.S. school, the Chinese school, and the "party chair" assigned to the Chinese school.[506]

In fall of 2015, more than four years after launching the ACC, the dean was at her home in China when she received an urgent phone call from a Chinese school official instructing her to come to an administration building on campus right away.[507] According to the dean, she arrived at the administration building and was led into a small conference room where she was greeted by four uniformed Chinese police officials.[508] The police officials had placed their badges on the table for the dean to see when she entered the room.[509] One of the police officials instructed the dean's administrative assistant and translator to leave the room, but she objected.[510] After several minutes of debate, the police officials let the administrative assistant stay in the room to translate the questioning.[511]

The police officials then proceeded to ask the dean a series of questions concerning both her personal and her U.S. school's involvement with the ACC program.[512] The questions focused on funding, paperwork, administrative hierarchy, and any involvement of the State Department.[513] The dean said this all caught her off guard, as the meeting and questioning were unexpected.[514] She also told the Subcommittee that before she went into the room, she sent a concerned text to her husband explaining that she was going to answer questions from the police.[515] Towards the end of the meeting, the police officials asked for specific answers to a series of questions.[516] The police told her that they would follow-up soon and instructed her not to discuss the meeting with anyone.[517]

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[503] *Id.*
[504] *Id.*
[505] *Id.*
[506] *Id.*
[507] *Id.*
[508] *Id.*
[509] *Id.*
[510] *Id.*
[511] *Id.*
[512] *Id.*
[513] *Id.*
[514] *Id.*
[515] *Id.*
[516] *Id.*
[517] *Id.*

After the interrogation, the dean sent an email to U.S. school officials asking for paperwork, funding requests, and other answers to the police officials' questions.[518] Roughly a week after the first meeting, the police returned and demanded to see her correspondence with her U.S. school to ensure that she actually did follow-up on their requests.[519] The dean told the Subcommittee that she later told an American colleague also working in China about her experience.[520] Her colleague was not surprised about the questioning as the police routinely interrogate American officials in this manner.[521] Now, the colleague concluded, she was just "part of the club."[522]

### E. The State Department Inspector General Found that the American Cultural Center Program was "Largely Ineffective" in its Mission Due to Chinese Interference

In December 2017, the State Department Inspector General ("IG") found that "Mission China's American Cultural Center program is largely ineffective in achieving its stated goal of promoting a greater understanding of U.S. culture and policies through outreach to Chinese students and the general public."[523] The IG report covered a wide range of public diplomacy issues the embassy encountered and specifically identified Chinese interference and obstruction as a limiting factor when determining the ACC program's effectiveness.

For example, the State Department's grant or funding evaluation process cites the importance of being able to monitor or track the grant's success through visitations or other on-site assessments. The IG found, "In an environment where access to university campuses and officials is subject to host government approval, mission personnel consistently reported difficulty visiting these centers, whose activities or even existence in some cases could not be verified."[524] As a result of the restrictions on visiting the ACCs, the IG continued, "mission personnel were often **unable to monitor** progress towards a grant's goals and objectives" as required by State Department policy.[525]

The State Department responded to the IG's report stating that it "does not agree that the American Cultural Center program has been 'largely ineffective' ...

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[518] *Id.*
[519] *Id.*
[520] *Id.*
[521] *Id.*
[522] *Id.*
[523] U.S. Dep't of State, ISP-I-18-04, Office of Inspector General, *Inspection of Embassy Beijing and Constituent Posts, China*, 9 (Dec. 2017).
[524] *Id.*
[525] *Id.* (emphasis added).

but agrees that there are concerns related to the stability of specific Centers due to active interference by the Chinese government as well as limitations in visiting individual centers."[526] Notwithstanding that comment, the State Department did not fund any new cultural centers and will base additional funding of cultural centers in FY 2018 on the results of a more formal evaluation of the program.[527]

### F. The State Department Documented More than 80 Instances of Chinese Interference with Public Diplomacy Projects

As Chinese interference increased over the last several years, the State Department started keeping detailed records. These records detail more than 80 specific instances of Chinese government interference with American public diplomacy efforts throughout China. While the types of interference and obstruction varied, there were two main types of interference reported by the State Department in internal reports reviewed by the Subcommittee and in interviews with Subcommittee staff. First, Chinese officials actively prevented U.S. diplomats and other embassy officials from being able to visit ACCs or other educational programs sponsored by the U.S. government. Second, Chinese officials routinely cancelled events that were either hosted by, or involved the participation of, the U.S. embassy in Beijing.

China's actions appear to contradict the important diplomatic principle of reciprocity that is recognized in international tradition and law. Generally, reciprocity involves one state offering the citizens of another state certain privileges on the condition that its citizens enjoy similar privileges in the other state.[528] In the spirit of this tradition, the U.S. government does not systematically and routinely deny Chinese diplomats travel or shutdown public diplomacy events. In short, given the well-established diplomatic norm of reciprocity, U.S. diplomats should be allowed to travel or attend events in China the same way Chinese diplomats are free to do so in the United States.

#### 1. Chinese Officials Prevented U.S. Diplomats from Visiting American Cultural Centers and Attending Other Public Diplomacy Events in China

Over the last several years, China routinely prevented U.S. diplomats from visiting ACCs and attending other public diplomacy events that focused on cultural

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[526] *Id.* at 36.
[527] *Id.* at 25.
[528] Young-Joon Mok, *The Principle of Reciprocity in the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958*, 21 Case. W. Res. J. Int'l L. 123, 125 (1989).

exchanges. Limiting access to facilities funded in whole or in part by the United States prevents the State Department from determining the effectiveness of its programs. The State Department IG also cited the fact that the embassy staff was "unable to monitor" the success of the grant as one reason that the program as a whole was ineffective.[529] Chinese authorities failed to provide adequate reasons for the denied visits in more than 12 of the examples the State Department recorded. Detailed below are examples taken from internal State Department documents and interviews with State Department officials and U.S. educational administrators of specific instances of interference over the past several years.

- In March 2018, a Chinese Foreign Affairs Officer ("FAO") refused to allow a State Department official to visit an ACC. The FAO told the State Department that the particular ACC was "no longer in existence." The State Department checked with the American director of the ACC who indicated that the center was still active and that "lectures and other programs that are scheduled under the terms of the grant and their proposal are proceeding without difficulty." Even though the State Department official indicated that he had "an obligation to visit as part of our grant monitoring responsibilities," the visit was never arranged.[530]

- In April 2018, a State Department official was not permitted to attend a workshop at a Chinese school. According to the State Department, the only explanation was that the week before the school's hosting the ACC shut down its Confucius Institute in the United States.[531]

- In October 2017, a State Department official was scheduled to meet with an ACC's American director. When the American director brought the official to the ACC, the night staff "claimed not to have the keys." After several calls and the appearance of higher ranking school officials, "the keys were 'discovered' on the night watchman's key ring."[532]

- In April 2018, a Chinese school representative wrote that it was "too late to get the approval from the Chinese government for [U.S. government staff] to attend the opening [of an ACC]." The U.S. request was made more than one month before the opening event. The same Chinese school representative stated that, "[The Chinese school] thinks it is

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[529] U.S. Dep't of State, ISP-I-18-04, Office of Inspector General, *Inspection of Embassy Beijing and Constituent Posts, China* 9 (Dec. 2017).
[530] CDP-2018-00005-00059.
[531] CDP-2018-00005-00019.
[532] CDP-2018-00005-00025.

better to fly under the radar given the current relationship between the two countries."[533]

- In January 2018, Chinese school officials prohibited U.S. representatives from attending a film screening on a U.S. president at an ACC. A few days before the screening, the Chinese school officials informed the State Department that they would not be able to attend the viewings and "cited a rule prohibiting U.S. government officials from accessing university campuses" to show films or conduct lectures/presentations.[534]

- In December 2017, the Chinese director of an ACC invited U.S. officials to serve as judges for a cultural knowledge competition, but the next day disinvited the officials.[535]

- In May 2016, a new ACC opened, but was not able to operate effectively or collaborate with the U.S. Consulate. Following the opening ceremony, the Chinese school hosting the ACC was told that they must file a formal request with a party official if any U.S. State Department wanted to visit the school.[536]

### 2. Chinese Universities Regularly Cancelled Events After Granting Approval

Over the past several years, the State Department was forced to cancel dozens of events, speakers, and other activities after obtaining approval and undertaking significant preparations. Detailed below are examples taken from internal State Department documents and interviews with State Department officials and U.S. educational administrators of events or activities cancelled in the days or weeks leading up to them.

- In May 2017, a Chinese school did not allow a Fulbright Alumni Conference to take place on the school campus. The State Department then planned to hold the conference at a local hotel. Three days before the event, the hotel informed the State Department that another event was planned for the same time, so it needed to cancel. Upon further inquiry, the hotel staff admitted that they were told not to allow the conference. So, just two days prior to the conference, the State

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[533] CDP-2018-00005-00047.
[534] CDP-2018-00005-00020.
[535] CDP-2018-00005-00022
[536] CDP-2018-00005-00037.

Department moved the conference to a private museum and received permission. The night before the conference, while the State Department was still arranging furniture at the venue, the museum cancelled the event.[537]

- In October 2017, a U.S. District Judge planned to visit China and engage with local legal officials, professional, researchers, professors, and students. Two events were planned—a presentation co-hosted with a local law firm and an afternoon discussion with law students at a Chinese school. The Chinese FAO cancelled the discussion the night before the event.[538]

- In October 2017, a Chinese school, which previously had agreed to host an event with a speaker on corporate social responsibility, announced days before the event that it was "too sensitive" and cancelled.[539]

- In June 2017, a Chinese school's international department invited a State Department official to give a commencement speech. But two days before the event, the school called to say that they could only invite the U.S. official to attend the graduation ceremony.[540]

- In March 2017, a State Department official was scheduled to speak to students at a Chinese school on U.S.-China Economic Relations. The lecture was cancelled the week before when the professor making the arrangements said that the academic exchange committee deemed it "too sensitive of a time to have a visit from U.S. Embassy personnel." The Chinese professor added that, "with the National People's Congress underway here it seems like everyone is very on their toes."[541]

- In March 2017, a Chinese school was initially very receptive to the opportunity to host the U.S. Consular General, and the Chinese school president approved of the event. A few weeks later, however, one official warned the school not to cooperate at all with the U.S. Consulate because it is a "very sensitive time in China right now." The event was subsequently cancelled.[542]

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[537] CDP-2018-00005-00028.
[538] CDP-2018-00005-00023.
[539] CDP-2018-00005-00030.
[540] CDP-2018-00005-00026.
[541] CDP-2018-00005-00030.
[542] CDP-2018-00005-00031.

- In October 2016, a Chinese school official cancelled a presentation on the U.S election process after receiving instructions from superiors. That official apologized to the State Department and explained that the cancellation was attributed to the current "sensitive environment." The official added that "similar activities have all been cancelled on the campus."[543]

- In September 2016, a Chinese school professor reached out to the State Department about having a former ambassador speak to a group of students about the U.S. election. The event was scheduled, but cancelled days later. Following the cancellation, the Chinese professor informed the State Department that individuals from "National Security Bureau" and "Provincial FAO" asked the school to cancel the event.[544]

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[543] CDP-2018-00005-00033.
[544] CDP-2018-00005-00035.

UNITED STATES DEPARTMENT OF EDUCATION
THE DEPUTY SECRETARY

January 3, 2019

Ms. Sandra Bruce
Acting Inspector General and Deputy Inspector General
Office of the Inspector General
U.S. Department of Education
550 12th Street, S.W.
Washington, D.C. 20202

Dear Ms. Bruce:

I recently read news reports that the Office of the Inspector General (OIG) is considering a review of the U.S. Department of Education's (Department) decision dated November 21, 2018 (2018 Decision) to continue the recognition of the Accrediting Council for Independent Colleges and Schools (ACICS). I was disappointed to learn of this through the media, as opposed to your office informing me about this inquiry in one of our regular meetings.

This matter is unique in that the Department initiated its action as a result of a recent federal court decision, *Accrediting Council for Independent Colleges and Schools v. DeVos,* 303 F. Supp. 3d 77 (D.D.C. March 23, 2018). In that decision, the court ordered Secretary DeVos to reconsider the previous Administration's denial of continued recognition of ACICS as an accreditor. The court remanded the case to the Department after finding that the Department's actions in the prior Administration were "arbitrary and capricious" and in violation of the Administrative Procedure Act and the Higher Education Act, and the latter's implementing regulations. Indeed, the court was unequivocal in its criticism of the Department's failure properly to examine all of the evidence demanded of ACICS by the Department.

Specifically, the court found, among other things, that the then Secretary of Education (in his final agency decision dated December 12, 2016 [2016 Decision]) and that the then Senior Department Official and Chief of Staff to the Secretary (in her recommendation dated September 22, 2016 [2016 Recommendation]) arbitrarily and capriciously failed to consider 36,000 pages of documents and other materials (Part II Submission and Related Evidence) that the Department had demanded from ACICS. The court's findings are concerning to the Department, and I would note are of the nature your office is charged with considering.

These wasteful, abusive procedural illegalities under the previous Administration are particularly troubling in light of OIG's Final Audit Report, "U.S. Department of Education's Recognition and Oversight of Accrediting Agencies," (Control Number ED-OIG/A09R0003). That report examined the Department's review of accreditation agencies considered by the Department between January 1, 2013, and May 7, 2017 – a period almost exclusively overseen by the prior Administration – and found troubling areas of oversight that this Administration is now working to correct.

Indeed, in contrast to the 2016 Decision and the 2016 Recommendation from the previous Administration, the Department's most recent 2018 Decision and the Senior Department Official's 77-page recommendation dated September 28, 2018 (2018 Recommendation) are well-reasoned and based on a careful consideration of the record and the court's ruling.

The Department fully cooperates with OIG reviews. Nonetheless, it is disturbing that your office appears to be responding to a Congressional request that is really a disagreement over policy and the merits of the Department's decision.

Under these circumstances, we request that your office reconsider any plan that it might have to review the Department's 2018 Decision and 2018 Recommendation. Nonetheless, if your office believes that a review of the ACICS matter is warranted, any such inquiry should begin with an examination of the previous Administration's decision-making that led to the denial of ACICS's petition for continued recognition – an action found by a federal judge to have been illegal. Specifically, should you choose to review the ACICS matter, we ask at a minimum that you review, explore, and answer the following areas of inquiry for the time period prior to December 31, 2016:

1. Why did the Department request from ACICS the Part II Submission and Related Evidence?
2. Who at the Department decided to request the Part II Submission and Related Evidence?
    a. Did this person or persons consult with the Department's Accreditation Staff before doing so?
3. Did any person at the Department review the Part II Submission and Related Evidence after it was requested?
    a. If so, why did the Department not use the Part II Submission and Related Evidence when considering and issuing the 2016 Recommendation and the 2016 Decision?
    b. If not, why did the Department not review the Part II Submission and Related Evidence after requesting it from ACICS?
4. Did the Department refuse to use the Part II Submission and Related Evidence because doing so would have delayed revocation of ACICS's recognition?
5. Was any person at the Department instructed <u>not</u> to review the Part II Submission and Related Evidence?
    a. If so, why?

Should you choose not to look into the previous Administration's actions, I expect to receive a clear, written explanation with sound reasons why that will not be done.

Thank you for your consideration of my requests.

Sincerely,

Mitchell M. Zais

Mitchell M. Zais, Ph.D.

**Agreement between Confucius Institute Headquarters/Hanban and Overseas Dispatched Teacher**

Name of the Overseas Dispatched Teacher:

Overseas Institution:

Continent:

Country:

Confucius Institute Headquarters/Hanban

Printed 2018

Party A: Confucius Institute Headquarters/Hanban

Address: No. 129, Denshenmenwaidajie, Xicheng District, Beijing

Postcode: 100088

Personnel Department

传真：010—58595904

Fax: 010—58595904

Party B

Name:

Gender:

Passport Number:

ID Number:

Address (current household registration address):

Current residence:

Postcode:

Cellphone number (domestic):

Current Work Unit (domestic):

Phone Number of the Personnel Department of the Current Work Unit (domestic):

Phone Number of the Foreign Affairs Department of the Current Work Unit (domestic):

Emergency Contacts (Relatives):

Phone number of the Emergency Contacts:

Party C (the Current Work Unit of Party B) (domestic):

Permanent Phone Number:

Fax:

Mobile Phone Number:

Address of the Current Work Unit (domestic):

Postcode:

This Agreement defines the job assignment of teaching Chinese as a second language in an overseas country. It is not a labor contract. The three parties: Party A, Party B, and Party C sign the Agreement on an equal and voluntary basis and agree to abide by the Agreement.

Article 1 Job Appointment Period, Trial Period, and Position of Job Appointment

Party A accepts Party B's voluntary application and approves that Party B be dispatched to ___ (institution) in ____ (country) from _____ to _____.

1. Party B should not work for the number of work hours that exceeds the allowed number of work hours regulated by local laws for the overseas institution (hereby known as "overseas work unit). Job Appointment Period (typically one academic year). If Party B's actual job appointment period does not agree with the job appointment period as set by this Agreement, Party B's job appointment period begins on the date when s/he departs the country, which is also regarded as the date the Agreement takes effect. The job appointment period ends accordingly.

Article 2 Scope of Work Assignment

1.Party B conducts and fulfills the work assignment, assigned by the overseas work unit, of teaching Chinese (and Chinese culture).

2. Party B conducts and fulfills the work assignment, assigned by the overseas work unit, of implementing such activities as administrative duties and the promoting of culture and academic exchanges.

3. Party B conducts the work assignment, assigned by the overseas work unit, of compiling teaching materials, administering HSK tests, etc.

4. Party B conducts other work assignments by Party A

5. _____

6. _____

Article 3 Work Hours at the Overseas Work Unit

1. Party B's total number of work hours per week should not exceed those as regulated by the local laws of the area where the overseas work unit is located (typically 40 work hours per week).

2. Typically, Party B's teaching load is 20 hours per week (45 minutes per class period). If necessitated to stay in office, the number of such hours should align with those as required by the overseas work unit. In principle, it should not exceed those as required by local laws and regulations.

Article 4 Stipends

1. The rate of stipends meet the requirements as set by the Ministry of Finance and the Ministry of Education in "The Management of Stipends for Overseas Dispatched Teachers" ( No. 194 〔2011〕 ) . Party A provides such stipends.

2. the Rate of Stipends for Party B

(1) Basic salary per month _____ (US dollars)

(2) Compensation for transportation per month _____ (US dollars)

(3) Regional compensation rate per month _____ (RMB, note: Chinese monetary unit)

(4) One time settlement payment $3000: for processing overseas settlement procedures such as registration and ID card application, purchasing necessary residential furniture, household appliance, teaching devices, etc. If the actual job appointment is less than six months, one time settlement payment will be distributed by $125 per month.

(5) One time overseas dispatch compensation RMB3000 to be used for notarization, passport, visa application, as well as transportation incurred by departure for and return from overseas and vacation (domestic).

(6) Rental overseas. If the overseas work unit provides housing, Party A will not provide housing subsidiary.

(7) Annual bonus payment. Party B, when satisfactorily evaluated by Party A, will receive annual bonus payment, which is the equal of one month salary for Party B.

(8) Stipends for home visit and vacation shall align with pertinent requirements as set by the government. If the actual consecutive job appointment is less than two academic years, there will be no government-covered home visit and vacation.

(9) Medical Insurance. During the job appointment period, Party B will receive reimbursement from Party A in accordance with "the Management of Stipends for Overseas Dispatched Teachers" (No. 194 [2011]). Party B's spouse receives the same reimbursement during Party B's job appointment period or during the visit to Party B.

(10) Overseas income. During the job appointment period, if the compensation and reimbursement Party B receives from the overseas work unit is larger than those as stipulated by this Agreement, the difference/balance can be retained by Party B. And Party A will not distribute and reimburse any as stipulated in Article 2. If lower than this Agreement, the difference will be covered by Party A. In the meantime, any other expenditures caused by Party B will be his/her own responsibility.

3. International airfare for Party B and his/her spouse when they depart for or return from the job assignment overseas will be covered by Party A. Plane tickets will be booked and purchased by Party B. It is required that they take Economy Class of seating, fly the shortest routes and fly a Chinese airline as a priority choice.

Article 5 Party A's Rights

1. Party A arranges and adjusts job assignments and job terms, supervises, checks-up, and evaluates Party B's job performance.
2. In accordance with "The Management of Stipends for Overseas Dispatched Teachers"( No. 194〔2011〕), Party A determines and adjusts the rate of stipends for Party B and distributes such stipends accordingly.
3. Party A, in view of job requirements as set up by the overseas work unit, provides appropriate training in terms of work ethics, professional skills, safety education, as well as knowledge of management. The purpose is to improve Party B's work ethics and professional skills.
4. Party A has the right to decide if a copy of this Agreement needs to be sent to Party C, the overseas work unit, or the individual involved.
5. Party A reserves the right to terminate Party B's job appointment term before it expires and hold Party B accountable for breach of agreement if Party B violates rules and regulations as delineated in "The Management of Overseas Dispatched Teachers by Confucius Institute Headquarters/Hanban."
6. Party A reserves the right to terminate Party B's job appointment term before it expires and hold Party B accountable for breach of agreement if Party B violates rules and regulations as delineated in the Agreement.
7. Other rights endowed by laws and regulations

Article 6 the Obligations and Responsibilities of Party A

1. Party A is responsible for admonishing, educating, managing and supervising Party B in terms of work ethics, work assignment, professional training, job expectation, safety education, abiding by regulations and rules, etc.
2. In accordance with "The Management of Stipends for Overseas Dispatched Teachers"( No. 194〔2011〕), Party A provides Party B with relevant stipends accordingly.

3. Party A is responsible for providing information on job assignment in the overseas work unit, including teaching assignments, workload, as well as working conditions.

4. Party A is responsible for providing necessary guidance and consultation and service for Party B for his/her overseas job appointment.

5. Party A is responsible for protecting the legitimate interests of Party B and helping Party B solve problems s/he encounters during the overseas job appointment period.

6. Party A reserves the right to determine when Party B should return to home country and to suspend distributing income and stipends to Party B when the Agreement is annulled.

Article 7 Party B's Rights

1. Party B is entitled to the required working conditions and safety and security.
2. Party B is entitled to receiving relevant benefits including overseas salary, stipends, compensation, medical insurance, and vacation, as well as spouse-accompaniment or spouse visit.
3. Party B is responsible for notifying Part A of problems encountered during the job appointment period overseas and asking for assistance.
4. Party B has the right to make suggestions and comments to Party A regarding overseas job assignment.

Article 8 the Obligations and Responsibilities of Party B

1. Party B should abide by the laws of home country and the overseas country s/he is dispatched to; should conscientiously safeguard national interests, uphold work ethics, should not participate in illegal organizations. Party B should respect the culture and custom of the overseas country s/he is dispatched to and foster friendship with local people.
2. Party B should follow "The Management of Overseas Dispatched Teachers by Confucius Institute Headquarters/Hanban," and seriously conduct and fulfil work assignments as assigned by the overseas work unit, as well as by Party A, and receive job performance evaluation conducted by Party A.
3. Party B should report to Party A when s/he signs a job agreement with the overseas work unit.
4. Party B should provide to Party A accurate and complete information about him/herself both at home and abroad and register and update such personal information and job information at Confucius Institute Headquarters/Hanban's Service Platform for Overseas Dispatched Teachers at http://kzxyshizi.hanban.org
5. Party B should report to the overseas work unit and/or Chinese Embassy/ Consulate within one month of arrival.
6. Party B should fulfill the work assignments as assigned by Party A and by the overseas work unit.
7. During the job appointment period, Party B and his/her spouse (whether accompanying or on a visit) should purchase personal injury insurance. If Party B or his/her accompanying spouse involve in accidents, they should handle claims through the insurance company. Party A is not subject to any liability in this regard. Party A is entitled to cancelling Party B's overseas dispatch or terminating Party B's job appointment term if Party B does not purchase such insurance.

   Upon arrival at the overseas work unit, Party B should purchase a local medical insurance in a timely manner. If such medical insurance exceeds $1500 per year, Party B must first obtain approval from Party A.

8. Party B's personal profiles, archival information as well as party affiliation will be kept by Party C.
9. When Party B completes his/her job appointment term, the Agreement with Party A is annulled. Party B should return to home country with the time period as required by Party A. Party A, upon return, will continue to work for Party C. Party A assumes no responsibility of assigning a job for Party B. Upon return home, Party C will restore the income package (return date to be

evidence by the return flight boarding pass) and other benefits including medical insurance and welfare benefits. Party A does not assume responsibilities and expenditures in this regard.

Party B, if s/he nullifies his/her job contract with Party C, will be responsible for finding a job for him/herself upon the completion of overseas job assignment. Party A does not assume any responsibility for this and for any expenditure in this regard.

10. Party B or spouse must not give birth overseas. Party B, if pregnant overseas, should notify the overseas work unit and Party A, and handle early return procedures. If spouse is pregnant, she should immediately notify the overseas work unit and Party A, and suspend spouse-accompaniment and return home immediately.
11. Party B, upon the completion of job appointment term, should, within one month of return, complete the job departure report to Hanban with all supporting documents and the fund settlement procedure. If Party B fails to complete this procedure by due date, a deduction of salary and stipends will be done by 5% per day.
12. After the Agreement is annulled, Party B must return, within the time period as required by Party A, the balance of the pre-paid salary, stipends, housing subsidiary, as well as other funds that exceed the length of the actual job appointment period to an account designated by Party A.
13. Party B confirms that s/he understands and agrees to abide by the relevant regulations regarding overseas dispatched teachers by Confucius Institute Headquarters/Hanban, which may not be listed in full in the Agreement.

Article 9 Annulment and Termination of the Agreement

1. Party A and Party B both will abide by all the articles in the Agreement. During the Agreement period, either party, without prior consent of the other party, can not alter or nullify the Agreement. If one party, because of forces beyond human control such as national emergency, earthquake, inundation, tsunami, *coup d'état*, war, can not implement the Agreement, it should notify the other party in a timely manner and alter or annul the Agreement.
2. When the Agreement expires, it automatically terminates.
3. Party A reserves the right to annul the Agreement and terminate Party B's job appointment term if Party B has any one of the following behaviors

(1) Violate Chinese laws or the laws of the overseas country to which Party B is dispatched; engage in activities detrimental to national interests; participate in legal organizations and engage in activities against local religions and customs, hence causing bad influences
(2) Violate the management regulations as set by Party A and refuse to correct per request.
(3) Provide false materials and information.
(4) Abandon the job without any reasons.
(5) Frequent delays for job assignments, frequent absences, as well as frequent breaches of regulations and rules at the overseas work unit. Failture at annual job performance evaluation.
(6) Unauthorized home visits or vacation or extensions (without going through appropriate procedures in accordance with the rules).
(7) Engage in illegal and unlawful activities in the name of Party A or using Party A's logo.

(8) Refuse to follow the rules and regulations of the overseas work unit, Chinese Embassy and Consulates and Confucius Institute Headquarters/Hanban.

(9) Party B and his/her spouse, during the appointment period, fail to abide by the regulations regarding no-birth overseas.

(10) Pursuing degree studies during the job appointment period overseas.

(11) During the job appointment period, changes nationality or one-sidedly abandon the status of overseas dispatched teacher, or one-sidedly terminates the Agreement.

(12) Other serious breaches of the Agreement. After the Agreement is annulled or terminated, Party B must return home within the time period as required by Party A or within the job appointment period as required by the Agreement. Party A, based on the length of the actual job appointment period overseas (not including the over stay beyond the allowed time), will calculate the distribution of income package for Party B accordingly. Party A is not responsible for covering compensations not delineated in the Agreement.

Article 10 the Obligations of Party C

1. Party A confirms that Party C will be a guarantor for Party B which agrees to fulfill the obligations as set up by the Agreement. Party C agrees to be Party B's guarantor and will diligently assist Party A in urging Party B to abide by the Agreement and return home in a timely manner.
2. Party C will, in accordance with relevant regulations, regard Party B as holding the same employment status as before s/he leaves for the job assignment overseas, and take care of his/her retirement pension, unemployment insurance, medical insurance and housing provident funds.
3. After Party B leaves for the overseas job appointment, his/her personal archive and party affiliation will be retained by Party C.
4. If Party B encounters injuries during the overseas appointment period, Party C is obligated to take care of things related to Party B.
5. Party C will restore Party B's salary package as the same as before s/he leaves for the overseas job appointment (return date to be evidenced by the return flight ticket and boarding pass. Party C will also restore other benefits to Party B such as medical insurance and welfare benefits.
6. Party C agrees, voluntarily, to function as a guarantor for Party B, which agrees to carry out by signing the Agreement. The scope of guarantee includes all that is delineated in Item Two of Article 4 in this Agreement: Party B should return the salary, stipends, housing subsidiary, other fees, breach of contract penalties, and indemnity for damage of loss.
7. The guarantee period is one year starting from the day Party B should return funds or pay breach of contract penalties and indemnity for damage of loss.
8. During the effective period of the Agreement, if Party C needs to make alterations due to unexpected changes, it should notify Party A two months in advance. Only with Party A's approval can Party C make alterations in accordance with the pertinent regulations as set by Party A.
9. Non-nullification

(1) The guarantee delineated in this Agreement will not change or nullify because of any alteration, revision or addendum in the Agreement as signed by Party A and Party B.

(2) The guarantee delineated in this Agreement will not change or nullify because of annulment, termination or alteration of the Agreement as signed by Party A and Party B.

(3) The guarantee delineated in this Agreement will not nullify or change because of other forms of guarantee Party B provides to Party A.

Article 11 Breach of Contract Penalties

After the Agreement takes effect, if either party (Party A or Party B) breaches the contract partially or wholly, the party must assume responsibilities for breach of contract penalties. Party B or Party C which have caused damages should make compensation payment to Party A according to the extent of damage.

Article 12 Application of Laws and Dispute Settlement

In the event of any dispute, because of breach of contract , among Party A, Party B, and Party C, the said dispute will be submitted to arbitration within the People's Republic of China in accordance with the laws of the People's Republic of China or be resolved according to the Agreement.

Article 13 Term of the Agreement

The Agreement takes effect on the date when the three parties sign it (Party A, Party B, and Party C). The Agreement takes effect on the date of signing _____. If Party B wishes to apply for extension from Party A, it should submit such application three months in advance of the expiration of the Agreement. If such application is approved, a new agreement for overseas dispatch should be signed.

Article 14 Other Terms

1. Other terms that are not covered in this Agreement should be discussed and consulted among the three parties and a supplementary agreement should be signed separately. The supplementary agreement has the same legal status as the Agreement.
2. "The Management of Overseas Dispatched Teachers by Confucius Institute Headquarters/Hanban" and "The Regulations regarding the Annual Evaluation of Overseas Dispatched Teachers Sent by Confucius Institute Headquarters/Hanban" are the effective addendums of the Agreement and have the same legal status as the Agreement.
3. The Agreement takes effect after the three parties sign it. The Agreement has three copies. Party A, Party B, and Party C shall each maintain one copy and they each have the same legal status.

Signature

Date

Party B should hand-copy the following and sign:

I have carefully read the above information, understand my rights and my obligations and agree to assume legal responsibilities accordingly.

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

PROUD SPONSOR of the AMERICAN MIND®

Publication Date: October 4, 2004

DCL ID: GEN-04-11

# Reporting of Foreign Gifts, Contracts, and Relationships by Institutions

Posted on 10-04-2004

October 2004

GEN-04-11

Subject: Reporting of Foreign Gifts, Contracts, and Relationships by Institutions

Summary: This letter reminds institutions of the statutory requirement that they report gifts received from or contracts entered into with foreign sources, and ownership or control of institutions by foreign entities.

Dear Partner:

Section 117 of the Higher Education Act of 1965 (HEA), as amended, requires most institutions that participate in the Title IV student assistance programs to submit to the Secretary disclosure reports containing information about gifts received from any foreign source, contracts with a foreign entity, and any ownership interests in or control over the institution by a foreign entity. We want to remind institutions of the importance of complying with this provision of the HEA.

The remainder of this letter, presented in a Question & Answer (Q&A) format, provides details about the reporting requirement and the processes we have developed to collect the required information from institutions. Please note that definitions of many of the terms used in the Q&A section appear at the end of the letter. Also please note that the information in this letter is presented in summary form. Institutions are encouraged to carefully review the full text of section 117 of the HEA (see attachment to this letter) in order to ensure their compliance with the provision.

## General -

**Q1 How do I know if my institution is required to submit a report of foreign gifts, contracts, or ownership and control?**

A1 All domestic institutions that receive any Federal financial assistance (directly or indirectly) and that offer a bachelor's degree or higher, or that offer a transfer program of not less than two years that is acceptable for credit toward a bachelor's degree, are required to report. [See HEA section 117(h)(4)]

**Q2 What are the conditions that require reporting?**

A2 An institution must submit a report if the total of all gifts from and contracts with a foreign source exceeds $250,000 in any calendar year or it is owned or controlled by a foreign source. [See HEA section 117(a)]

**Q3 Is the foreign gift, contract, and ownership information my institution reports made public?**

A3 Yes, consistent with the law, all disclosure reports are public records and are available for inspection and copying. [See HEA section 117(e)]

**Q4 What happens if my institution does not comply with the foreign gift, contract, or ownership reporting requirements?**

A4 If an institution fails to comply with the reporting requirement in a timely manner the Secretary may recommend that the Department of Justice undertake a civil action in Federal District Court to ensure compliance. In addition, the institution must reimburse the government for the full costs of obtaining compliance following a knowing or willful failure to comply. [See HEA section 117(f)]

## When and How to Report -

**Q5 When must my institution submit its foreign gift, contract, and ownership or control report?**

A5 An institution must report no later than the January 31 or July 31, whichever is sooner, that immediately follows the activity that triggers the need for a report as discussed in Q&A #2. [See HEA section 117(a)]

**Q6 What if I have missed filing a required report?**

A6 You should immediately file all of the missed reports.

**Q7 If my institution meets the "ownership or control" criteria noted in Q&A #2, must we continue to report that condition every six months?**

A7 No, an institution must only report when there is a substantive change to a previously reported ownership or control status, or in the institution's program or structure, as it relates to a foreign source.

**Q8 How does my institution report foreign gift, contract, or ownership and control information to the Secretary?**

A8. Foreign gift, contract, and ownership or control reports must be submitted to the Department's Federal Student Aid (FSA) Case Management Teams using FSA's electronic application process (eAPP) (www.eligcert.ed.gov). Go to Section K, Question 69, and enter the appropriate information about the foreign gift, contract, or ownership and control, then go to Section L, to complete the signature page. Submit the report electronically and mail in the signature page to the address provided.

**Contents of Reports -**

**Q9 In the case of an institution that meets the "contract or gift " criteria noted in Q&A #2, what information is required to be included in the report?**

A9 For gifts received from or contracts entered into with a foreign government the report must include the identity of the foreign country and the aggregate amount of such gifts and contracts received from each foreign government. [See HEA section 117(b)(2)]

For gifts received from or contracts entered into with a foreign source other than a foreign government the report must include the name of the foreign state to which the contract(s) or gift(s) is attributable and the aggregate dollar amount of such gifts and contracts attributable to a particular country. [See HEA section 117(b)(1)]

**Q10 In the case of an institution that meets the "ownership or control" criteria noted in Q&A #2, what information is required to be included in the report?**

A10 For such an institution each disclosure report must contain the identity of the foreign entity, the date on which the foreign entity assumed ownership or control, and a description of any substantive changes to previously reported ownership or control, or in institutional program or structure resulting from the change in ownership or control. [See HEA section 117(b)(3)]

**Q11 What additional information must be included in the report about restricted or conditional gifts or contracts?**

A11 Whenever an institution receives a restricted or conditional gift or contract from a foreign government it must disclose the name of the country, the amount of the gift or contract, the date of the gift or contract, and a description of all conditions or restrictions as defined below. [See HEA section 117(c)(2)]

Whenever an institution receives a restricted or conditional gift or contract from a person it must disclose the citizenship, or if unknown, the principal residence for that person, the amount of the gift or contract, the date of the gift or contract, and a description of all conditions or restrictions as defined below. [See HEA section 117(c)(1)]

Whenever an institution receives a restricted or conditional gift or contract from a legal entity other than a foreign state or an individual it must disclose the country of incorporation, or if unknown, the principal place of business for that foreign source, the amount of the gift or contract, the date of the gift or contract, and a description of all conditions or restrictions as defined [See HEA section 117(c)(1)]

**Alternative Reporting -**

**Q12 What if my state requires similar reporting of foreign gifts, contracts, and ownership?**

A12 If the state has provided the Secretary assurances that the institution has met the requirements for public disclosure under State law the institution may submit a copy of the disclosure report filed with the State in lieu of the report required by the Secretary. [See HEA section 117(d)(1)]

**Q13 What if another Federal agency requires similar reporting of foreign gifts, contracts, and ownership?**

A13 If an institution has filed a report substantially similar to the report required under section 117 of the HEA with any other agency of the Federal Government it may submit a copy of that report in lieu of the report required by the Secretary. [See HEA section 117(d)(2)]

**Q14 Whom can I contact for additional information on the foreign gifts, contracts, and ownership and control reporting?**

A14 For additional information you may contact the Case Management Team for your State. The telephone numbers for the Case Teams can be found at www.eligcert.ed.gov.

**Definitions -**

**Q15 What is the definition of a "foreign source"?**

A15 The HEA defines the term "foreign source" as -

§ A foreign government, including an agency of a foreign government;
§ A legal entity created solely under the laws of a foreign state or states;
§ An individual who is not a citizen or national of the United States; and
§ An agent acting on behalf of a foreign source.

[See HEA section 117(h)(2)]

**Q16 What is the definition of a "contract"?**

A16 The HEA defines the term "contract" as any agreement for the purchase, lease, or barter of property or services. [See HEA section 117(h)(1)]

**Q17 What is the definition of a "gift"?**

A17 The HEA defines the term "gift" as any gift of money or property. [See HEA section 117(h)(3)]

**Q18 What is the definition of the term "restricted or conditional gift or contract" used in Q&A #11?**

A18 For purposes of the reporting required by section 117 of the HEA, "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding -

§ The employment, assignment, or termination of faculty;
§ The establishment of departments, centers, research or lecture programs, or new faculty positions;
§ The selection or admission of students; or
§ The award of grants, loans, scholarships, fellowships, or financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

[See HEA section 117(h)(5)]

We thank you in advance for your cooperation in meeting the statutorily required reporting requirements discussed in this letter. As noted above, if you have any questions please contact the FSA Case Team that is responsible for your institution. Contact information for Case Teams is available at www.eligcert.ed.gov.

Sincerely,

Theresa S. Shaw
Chief Operating Officer

Attachment: HEA Section 117

## Attachments/Enclosures:

Attachment: Section 117 of the Higher Education Act in MS Word Format, Size 28KB, 5 pages

**Post-Hearing Questions for the Record**
**Submitted to the Honorable Mitchell M. Zais**
**From Senator Gary C. Peters**

**"China's Impact on the U.S. Education System"**
**U.S. Senate Committee on Homeland Security and Governmental Affairs**
**Permanent Subcommittee on Investigations**
**February 28, 2019**

1. In your testimony, you stated that you would investigate whether the Department of Education has performed a document search for records that would be responsive to a February 19, 2019 letter sent by myself, Senator Patty Murray (Ranking Member of the Committee on Health, Education, Labor and Pensions), Representative Robert Scott (Chairman of the Committee on Education and Labor), Representative Elijah Cummings (Chairman of the Committee on Oversight and Government Reform), and Representative Rosa DeLauro (Chairwoman of the Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies).

   Please confirm whether the Department has performed a document search. If not, please detail who decided to decline or delay the search? When will the search be conducted?

   **Answer: Yes. The Department has conducted a document search.**

2. In a letter dated January 3, 2019, you urged the Department of Education acting Inspector General Sandra Bruce to "reconsider any plan that [her office] might have to review" a Department of Education decision. Were Secretary Betsy DeVos, the White House, or any representative of those parties aware that you sent this letter?

   **Answer: The January 3, 2019, letter to the Inspector General (IG) deferred to the Office of the Inspector General to determine whether a review of the Accrediting Council for Independent Colleges and Schools (ACICS) was warranted; however, if the IG did decide to review ACICS, the letter encouraged the IG to examine the full administrative history, including the previous Administration's decision-making, because a federal judge found the previous Administration's denial of the ACICS petition to have been illegal. Specifically, the letter stated "[I]f your office believes that a review of the ACICS matter is warranted, any such inquiry should begin with an examination of the previous Administration's decision-making that led to the denial of ACICS's petition for continued recognition—an action found by a federal judge to have been illegal." This letter was completed in consultation with Department staff.**

○