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Section 117 of the Higher Education Act: Reporting of Foreign Gifts and Contracts

Section 117 of the Higher Education Act of 1965 (HEA, P.L. 89-329, as amended) establishes foreign gift and contract reporting requirements for certain domestic public and private institutions that (1) offer a bachelor's degree or higher (or offer a transfer program of at least two years), (2) are accredited by a nationally recognized accrediting agency, and (3) receive federal financial assistance.

Institutions meeting these criteria must report all foreign gifts and contracts that alone, or in combination with all others from the foreign source, total $250,000 or more in a calendar year. The U.S. Department of Education's (ED's) Office of Federal Student Aid (FSA) is responsible for Section 117 compliance, including collecting and disseminating data on gift and contract disclosures.

Congress has shown a particular interest in compliance with Section 117 with respect to gifts and contracts attributable to companies based in or citizens of the People's Republic of China (PRC). Concerns about foreign influence on institutions of higher education (IHEs) have centered on the theft of proprietary research, promotion of propaganda and disinformation, and the imposition of political or cultural values through curricular or extracurricular programming.

Reporting Requirements

Institutions must file biannual Section 117 reports by January 31 or July 31, whichever is sooner, in regard to receipt of the gift or entry into the contract. **Table 1** outlines statutory reporting requirements.

Table 1. Section 117 Reporting Requirements

Required Information	UGS	UNGS	RGS	RNGS
Aggregate amount	✓	✓	✓	✓
Country of citizenship or principal residence of foreign source	N/A	✓	N/A	✓
Country of incorporation or principal place of business of foreign source	N/A	✓	N/A	✓
Date of receipt	✕	✕	✓	✓
Description of restrictions	✕	✕	✓	✓

Source: Section 117 of the Higher Education Act of 1965.

Notes: UGS = unrestricted governmental source, UNGS = nongovernmental source, RGS = restricted governmental source, RNGS = restricted nongovernmental source, N/A = not applicable.

"Restricted" 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 other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

When an institution is itself owned or controlled by a foreign source, reports must include the identity of the foreign source, the date on which the foreign source assumed ownership or control of the institution, and any changes in program or structure resulting from the change in ownership or control.

Examples of Reported Data

Since 2020, ED has published biannual spreadsheets to meet Section 117's public disclosure requirement. ED has also published consolidated data covering gifts and contracts reported from January 1, 2014, to June 30, 2020.

As of October 15, 2024, the largest reported foreign gift any institution ever received was $458 million in 2023 to Morningside University in Iowa from an individual or business attributable to the British overseas territory of Bermuda. The second largest was a gift of $104 million in 2023 to the University of Chicago from an individual or business attributable to Australia.

The largest foreign government restricted contract was a $284 million contract that the government of Kuwait awarded to the University of Missouri in Kansas City for the purposes of tuition reimbursement for Kuwaiti students attending during the fall 2023 semester. The second largest was a $139 million contract that the government of Oman awarded to Washington State University (WSU). Omani students who met WSU admission qualifications received a simplified application process, for which WSU received "financial considerations" after accepting a minimum number of Omani students. The two largest unrestricted foreign government contracts were in the amount of $431 million and $286 million between Germany and the University of Pennsylvania.

The most recent data includes more than 6,500 gifts and contracts attributable to companies or citizens of the PRC. The largest such gift or contract was a $60 million contract entered into in 2018 by the University of California, Los Angeles, followed by a $57 million contract entered into in 2014 by the Juilliard School.

Enforcement Actions

Under HEA Section 487(a)(17), ED has the authority to implement a range of consequences for noncompliance such as fines, limitations, and suspension of HEA Title IV participation. HEA Section 117(f) specifies other consequences that apply to both Title IV and non-Title IV participating schools, including civil action and reimbursement of all costs related to investigation and enforcement.

For Title IV-participating institutions, the ultimate consequence for noncompliance would be the termination of their eligibility to participate in federal student aid programs (e.g., Pell Grants, Direct Loans). Historically, ED has not used this most severe penalty and has instead entered into resolution agreements with noncompliant institutions, which detail reforms to be implemented. In the event of any of the sanctions described above, an institution would still retain its right to appeal.

ED publishes notices of compliance review and records requests as well as inquiry responses to congressional requests.

Open and Closed Investigations

Although Section 117 was enacted in 1986, ED began to more proactively monitor and investigate disclosures in 2019. These actions were part of a broader multi-agency effort to mitigate malign and undue foreign influence. The Senate Subcommittee on Investigations held a hearing, also in 2019, and issued a report on the PRC's influence in higher education, which was followed by a 2020 report from ED's Office of the General Counsel. Both reports highlighted that up to 70% of all U.S. colleges and universities had failed to comply with Section 117, and those that did "substantially" underreported.

From 2019 to 2021 during the first Trump Administration, ED opened 19 investigations into Section 117 noncompliance. The Biden Administration did not open any investigations and moved compliance responsibility from the ED Office of the General Counsel to FSA. By the end of the Biden Administration, ED had resolved 10 of these 19 cases.

Recent Allegations of Noncompliance

The 118th Congress investigated several cases of underreported foreign contracts and gifts. In 2023, the Chair of the House Select Committee on the Strategic Competition Between the United States and the Chinese Community Party (CCP) and the Chair of the House Education and Workforce Committee sent a joint letter to the president and chancellor of the University of California, Berkeley, and opened an investigation. The letter alleged that the university had failed to properly disclose its contracts with its PRC partners and highlighted additional security concerns over a $220 million contract to build a satellite campus in Shenzhen, China. These concerns included access to research and whether U.S. taxpayer dollars were contributing to the military and technological goals of a foreign adversary.

In September 2024, the chairs of the two previously mentioned committees released a report entitled, *How American Taxpayers and Universities Fund the CCP's Advanced Military and Technology Research*. In November 2024, the chair of the House Select Committee sent a letter strongly encouraging the president of the University of Michigan to end its partnership with Shanghai Jiao Tong University. The university terminated the partnership.

Legislation in the 118th Congress

During the 118th Congress, some Members introduced bills that would have applied new reporting requirements to institutions. The DETERRENT Act (H.R. 5933), which passed the House, would have reduced the reporting threshold from $250,000 to $50,000. It would have added a new HEA Section 117B to require disclosure of foreign gifts and contracts made to certain individual staff and faculty at institutions with high or very high levels of research activity. Fines for knowing or willful violations would have varied depending on the provision violated and whether the violation was a first-time or subsequent offense. The act would have terminated Title IV eligibility for any institution that violated, for three consecutive institutional fiscal years, any requirements outlined in Section 117, as amended.

The Disclose GIFT Act (H.R. 5902) would have created a new HEA Section 117A to require institutions to report gifts and contracts awarded to individual faculty and staff and levied noncompliance fines based on the total amount of gifts or contracts. The Safeguarding American Education From Foreign Control Act (H.R. 4145/S. 2856) would have amended HEA Section 117 by requiring institutions to report gifts or contracts of any dollar amount attributable to "covered nations" considered to be a threat to U.S. economic or security interests (e.g., China, Iran, North Korea, Russia).

The RIFA Act (H.R. 6165) would have created a new HEA Section 117A to require private institutions with total assets in excess of $6 billion (excluding those assets used directly for educational purposes) or with certain "investments of concern" in excess of $250 million to file annual disclosure reports. "Investments of concern" would be defined as those attributable to a foreign country of concern or a foreign entity of concern, such as a terrorist organization.

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