

Institutional Compliance with Section 117 of the Higher Education Act of 1965

U.S. Department of Education
Office of the General Counsel

October 2020



Contents

I.	EXECUTIVE SUMMARY	1
II.	BACKGROUND	4
	A. Legislative History.....	4
	B. Scope of the Problem.....	7
	C. Recent History.....	10
	D. Congressional Communications and Department Investigations.....	12
	E. Initial Review	13
III.	OBSERVATIONS	14
	A. Institutions' Resources.	14
	B. Inadequate Reporting.	15
	C. Inadequate Accounting Processes.	17
	D. Limited Oversight for International Business.	18
	E. Ties to National Security Risks.	19
	F. Vulnerability of R&D Technologies.	27
	G. Risks posed by Overseas Operations.	29
IV.	DEPARTMENT OF EDUCATION PLANNED ACTIVITIES.....	32
V.	CONCLUSIONS.....	34

The Office of the General Counsel acknowledges and thanks Bucky Methfessel, Senior Counsel for Technology and Information; Paul R. Moore, Chief Investigative Counsel; Kevin Slupe, Special Counsel; and Thea Dunlevie, Senior Analyst, for their work in preparing this Report.

The question of foreign influence on and foreign funding of domestic activities has long been a matter of concern for the United States government and the American people.

Congress did not task the Department of Education with assessing the positive, negative, or neutral impact of foreign money and foreign influence in American higher education.

Rather, Congress asked us to ensure the public had transparency from colleges and universities so that you could make such an assessment yourself and hold those institutions accountable.

This report is designed to empower you to make decisions, as an informed citizen, consumer, and taxpayer, about what is or is not appropriate behavior regarding financial interactions between institutions of higher education and foreign sources.

We hope you will find it useful.





I. EXECUTIVE SUMMARY

Congress requires U.S. colleges and universities (“institutions”) publicly to report foreign gifts and contracts to the U.S. Department of Education (“Department”). Codified at Section 117 of the Higher Education Act of 1965 (HEA), 20 U.S.C. 1011f (“Section 117”), this mandate requires nearly all colleges and universities to report, twice each year, foreign gifts and contracts the value of which is \$250,000 or more (considered alone or in combination with other gifts or contracts with a foreign source) and to disclose any foreign ownership or control to the Secretary of Education. Section 117 does not prohibit institutions from taking foreign money; it mandates accurate and transparent disclosures of sources and amounts to the Department.

Under Secretary Betsy DeVos’ leadership, the Department has, for the first time, taken concrete steps to enforce Section 117 by ensuring the integrity of reporting requirements, confirming the correct reporting and categorization of donations, and prohibiting the use of domestic conduits and intermediaries to avoid the disclosures of foreign gifts.¹ Specifically, the Department has:

- Opened 12 compliance investigations yielding important and actionable information.
- Catalyzed disclosure of \$6.5 billion in previously unreported foreign money.
- Modernized the Section 117 information reporting portal, yielding significant information bearing on compliance. This new reporting portal – released in June 2020 – recorded approximately 7,000 transactions and approximately \$3.8 billion of foreign gifts and contracts from institutions. Illustrating the Department’s success in increasing statutory compliance, approximately 60 of the institutions who filed a Section 117 disclosure report through the Department’s new reporting portal are “new filers,” meaning that between 1986 and June 2020 these institutions had not previously submitted any reports. These “new filers” disclosed more than \$350 million in foreign gifts and contracts during the July 31, 2020, reporting period.
- Issued a notice of proposed rulemaking requiring institutions to submit true copies of foreign gifts and contracts to confirm the accurate reporting and categorization of foreign money.
- Collaborated with the U.S. Department of Justice, Offices of Inspectors General, and other agencies on issues of mutual concern, as appropriate.

¹ Section 117 of the Higher Education Act of 1965. U.S. Department of Education, 29 June 2020, www2.ed.gov/policy/highered/leg/foreign-gifts.html.

The facts uncovered during the Department's investigations and information collection confirm that many large and well-resourced institutions of higher education have aggressively pursued and accepted foreign money while failing to comply with Section 117 of the HEA. At the same time, higher education industry trade organizations have argued against donor transparency and sought to block disclosure of strings attached to foreign funds.² Our findings include:

- **First**, the filings received to date by the Department indicate the largest, wealthiest, and most sophisticated of America's institutions of higher education have received nearly all foreign funds, receiving billions of dollars in assets using an assortment of related intermediaries, including functionally captive foundations, foreign operating units, and other structures.
- **Second**, all institutions, even those with multibillion-dollar endowments, depend on direct and indirect subsidies from U.S. taxpayers, including through Federal student loans that have encumbered Americans with staggering debt loads, to operate. However, the evidence suggests institutional decision-making is generally divorced from any sense of obligation to our taxpayers or concern for our American national interests, security, or values.
- **Third**, higher education industry players have solicited foreign sources – including foreign governments, corporations, and persons – through official fundraising operations, quasi-entrepreneurial activities by professors and administrators, and through captive or affiliated foundations and alumni organizations. For at least two decades, the industry has been on direct notice that at least some of these foreign sources are hostile to the United States and are targeting their investments (i.e., “gifts” and “contracts”) to project soft power, steal sensitive and proprietary research, and spread propaganda. Yet, the Department is very concerned by evidence suggesting the higher education industry's solicitation of foreign sources has not been appropriately or effectively balanced or checked by the institutional controls needed to meaningfully measure the risk and manage the threat posed by a given relationship, donor, or foreign venture.
- **Fourth**, Section 117 reporting requirements are neither complicated nor burdensome. Institutions manage to track every cent owed and paid by their students; there is no doubt they can – and indeed do – track funds coming from foreign sources, including those adversarial to American interests. Moreover, most foreign funds flow to large, wealthy, and sophisticated institutions with highly credentialed administrators and ready access to the very best accountants and attorneys. All institutions have extensive foreign revenue reporting obligations to the Internal Revenue Service (Schedule F).³ Nevertheless, our investigations confirm a Senate subcommittee's finding

2 Representing institutions of higher education, the American Council on Education commented on the Department's November 2019 information collection request, “Practically speaking, this would preclude any anonymous gifts from foreign individuals, even very modest gifts, which is likely to have a chilling effect on the willingness of such donors to make charitable contributions at a time when affordability is a key issue on campuses and among policymakers.” See Bloom, M. Steven, “RE: Agency Information Collection Request – Foreign Gift and Contracts Disclosure – Docket No. ED-2019-ICCD-0114,” *American Council on Education*, 5 Nov. 2019, <https://www.regulations.gov/document?D=ED-2019-ICCD-0114-0022>.

3 “Form 990 Filing Tips: Reporting Foreign Activities (Schedule F).” Internal Revenue Service, www.irs.gov/charities-non-profits/form-990-filing-tips-reporting-foreign-activities-schedule-f#:~:text=.

that Section 117 reporting is systemically underinclusive and inaccurate.⁴ This is extremely troubling because the evidence shows that institutions have sophisticated systems for managing, soliciting, and tracking contributions, grants, and contracts over time and from many thousands of sources, foreign and domestic. All investigative subjects have produced data at a very high level of granularity (e.g., individual contributions from foreign sources of \$100 or less), demonstrating their capability to track from foreign sources exists. Therefore, it is hard to understand, for example, how Yale University could have simply failed to report any foreign gifts or contracts for four years or Case Western Reserve University for 12 years, precisely when both were rapidly expanding their foreign operations and relationships — including with China and Iran.⁵⁻⁶

- **Fifth**, there is very real reason for concern that foreign money buys influence or control over teaching and research.⁷ Disclosure and transparency might mitigate the harm to some extent. However, the evidence shows the industry has at once massively underreported while also anonymizing much of the money it did disclose, all to hide foreign sources (and, correspondingly, their influence on campus) from the Department and the public. Since 2012, institutions reported anonymous donations from China, Saudi Arabia, Qatar, and Russia totaling more than \$1.14 billion.

The Department offers this report to highlight for institutions of higher education the importance of compliant, transparent, and effective reporting under Section 117 and to assist schools in assessing the state of their compliance. This report is also designed to empower students to make decisions as informed consumers and to inform the public about financial interactions between various institutions of higher education and foreign sources.

4 *China's Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, [www.hsgac.senate.gov/imo/media/doc/PSI Report China's Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf).

5 Rubinstein, Reed. "Letter to Yale University." Received by Dr. Peter Salovey, U.S. Department of Education, 11 Feb. 2020, <https://www2.ed.gov/policy/highered/leg/yale-20200211.pdf>.

6 Rubinstein, Reed. "Letter to Case Western Reserve University." Received by Barbara R. Snyder, U.S. Department of Education, 27 May 2020, www2.ed.gov/policy/highered/leg/cwru-20200527.pdf.

7 For example, "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, when something is 'funded by the Chinese government, you know what you're getting.'" See *China's Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, p. 1, [www.hsgac.senate.gov/imo/media/doc/PSI Report China's Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf). Similarly, a 2009 study of universities in the United Kingdom concluded there was "evidence that foreign donations have substantially and demonstrably affected the academic activities of many universities, and their handling of subjects designated strategically important." At some universities, "the choice of teaching materials, the subject areas, the degrees offered, the recruitment of staff, the composition of advisory boards and even the selection of students are now subject to influence from donors." Foreign donations, on occasion, "manifested themselves in a range of events put on by universities which seemingly serve as platforms for these donors to eulogise their system of government" making domestic universities "sound like the diplomatic arm of a foreign government." According to this study, "the main problem with the Confucius Institutes is that, as they acknowledge, this is precisely what they are; and academics have not always been able to contradict the vision being presented." See Simcox, Robin. "A Degree of Influence: The Funding of Strategically Important Subjects in UK Universities." *Henry Jackson Society*, The Centre for Social Cohesion, 16 March 2019, henryjacksonsociety.org/publications/a-degree-of-influence-the-funding-of-strategically-important-subjects-in-uk-universities/.

Congress has not directed the Department to police international education partnerships or to assert when criminal activity has or has not occurred within these partnerships; the Department is simply obligated under Section 117 to ensure compliance with reporting practices. The American public should be informed about the role of foreign dollars at institutions of higher education. As intended by Section 117, such transparency is achieved through institutions' compliance with that section's requirements to report certain foreign gifts and contracts.

II. BACKGROUND

American higher education is a critical human and technological strategic resource. The intellectual dynamism created by our nation's historic commitment to academic freedom, free inquiry, and free speech on campus has substantially contributed to America's economic and national security. Accordingly, for decades, foreign state and non-state actors have devoted significant resources to influence or control teaching and research, to the theft of intellectual property or even espionage, and to the use of American campuses as centers for propaganda operations and other projections of soft power.⁸

A. Legislative History

Congress first required U.S. institutions of higher education to publicly report their foreign gifts and contracts to the U.S. Department of Education in 1986. A contemporaneous opinion article explained that the proposed section "sought to protect academic integrity threatened by gifts or contracts with foreign entities..."⁹ At the time, donations from Arab countries were building a Center for Contemporary Arab Studies at Georgetown University, and this project strongly motivated drafting of the statute. Other concerns included Japanese companies partnering with U.S.

- 8 In the 1930s, Soviet state-directed communism expanded across American academic institutions. American students, both at home and abroad, were targeted by Communist Party operatives to advance Soviet interests and U.S. colleges and universities were mined for intelligence and technology. In 1938, the first-known Soviet agent enrolled at the Massachusetts Institute of Technology where he stole American scientific secrets for the Russian government as part of a broader strategic effort. See Hunt, Jonathan. *Communists and the Classroom: Radicals in U.S. Education*, 1930-1960. University of San Francisco, 2015, pp. 24-25, repository.usfca.edu/cgi/viewcontent.cgi?article=1000&context=rl_fac; Stein, Harry. "The Red Decade, Redux." *City Journal*, 26 June 2019, www.city-journal.org/eugene-lyons- the-red-decade; Golden, Daniel. "Why Russian Spies Really Like American Universities." *ProPublica*, 23 July 2018, www.propublica.org/article/why-russian-spies-really-like-american-universities. Throughout the Cold War, Soviet agents targeted American research institutions to steal research, creating an espionage pipeline allowing copycat weaponry to be, in some cases, produced by the Soviets faster than by the Americans who had first designed them. Fialka, John J. "How the Secrets Moved East." *Air Force Magazine*, 29 June 2020, www.airforcemag.com/article/0497secrets/. Beginning in the 1960s and continuing until today, Saudi Arabia, Qatar, and non-state actors targeted U.S. institutions and Middle Eastern study centers as platforms for the global advancement of certain Islamic religious and political beliefs. Gutfeld, Arnon. "The Saudi Specter over the American Education System." *Jerusalem Center for Public Affairs*, 23 May 2019, jcpa.org/article/saudi-specter-over-american-education-system/; Litwin, Oren, "Islamist Qatar Buys American Teachers." *National Review*, 2 March 2018, https://www.nationalreview.com/2018/03/qatar-educational-foundation-spreads-islamist-propaganda-to- us-schools/. During the 1980s, Japan's practice of using American institutions as commercial research laboratories raised economic security concerns. Epstein, Stephanie. *Buying The American Mind: Japan's Quest For U.S. Ideas In Science, Economic Policy And The Schools. The Center for Public Integrity*, 1991, pp. 2, 5, cloudfront-files-1.publicintegrity.org/legacy_projects/pdf_reports/BUYINGTHEAMERICANMIND.pdf.
- 9 Maslow, Will. "Education Act Would Curb Foreign Gifts." *The New York Times*, 16 Oct. 1986, www.nytimes.com/1986/10/16/opinion/l-education-act-would-curb-foreign-gifts-148386.html.

research institutions to undercut American competitors while foreign governments were failing to reciprocate such educational agreement privileges to American companies.¹⁰⁻¹¹ Since 1998, the reporting requirement has been codified as Section 117 of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1011f, and titled “Disclosure of Foreign Gifts” (“Section 117”).¹²

Congress enacted Section 117 believing transparent reporting might counteract any distorting influence of foreign money on teaching, research, and culture and provide policymakers and the public with information to assess, detect, and respond to foreign influence operations under the guise of “academic” activities and to threats against the U.S. research enterprise. Until recently, the Department took no action to verify the reports it was receiving or to enforce the law against resisting institutions, and Congress failed to conduct effective oversight.

In 2004, the Department explicitly permitted anonymous foreign gifts and contracts, allowing the higher education industry and its foreign donors to avoid American public scrutiny, particularly foreign governments that used individuals and foundations as conduits for propaganda, indoctrination, and influence-peddling.

In 2008, concerned about the national security and domestic policy impact of post-9/11 Saudi Arabian conditional and substantial “donations” to Middle Eastern studies centers, a Senate committee directed the Department to ensure “the integrity of the reporting requirements” and confirm “donations are reported and categorized correctly.”¹³ This committee further directed the Department to “prohibit avoidance of the disclosure of foreign gifts through the utilization of domestic conduits or through the reimbursement of domestic entity contributions.”¹⁴ However, the Department took no action to implement these directives, to verify reporting accuracy, or to enforce the law against resisting institutions. Congress did not conduct effective oversight on these matters.

10 Kristof, Nicholas D. “Foreign Funding of Research.” *The New York Times*, 5 Aug. 1985, www.nytimes.com/1985/08/05/business/foreign-funding-of-research.html.

11 Ibid.

12 *Reporting of Foreign Gifts, Contracts, and Relationships by Institutions*. U.S. Department of Education Federal Student Aid, 4 Oct. 2004, www.insidehighered.com/sites/default/server_files/media/2004%20IFAP%20-%20Dear%20Colleague%20Letter.pdf.

13 *Joint Explanatory Statement of the Committee of Conference*. U.S. Senate Committee on Health, Education, Labor & Pensions, www.help.senate.gov/imo/media/doc/Statement_of_Managers.pdf.

14 “Title IV – International Education Programs.” *Congressional Record*, 30 July 2008, p. 17249, books.google.com/books?id=rF_oI2GuH6sC&pg=PA17249&lpg=PA17249&pg=prohibit+avoidance+of+the+disclosure+of+foreign+gifts+through+the+utilization+of+domestic+conduits+or+through+the+reimbursement+of+domestic+entity+contributions&source=bl&ots=Mmh6GBrjly&sig=ACfU3U2ID8lCtKwvryYM5rvRi3g3YZ-Ylg&hl=en&sa=X&ved=2ahUKEwjQ6_KdlarqAhXXkHIEHVJoC-wQ6AEwAHoECAoQAQ#v=onepage&q=prohibit%20avoidance%20of%20the%20disclosure%20of%20foreign%20gifts%20through%20the%20utilization%20of%20domestic%20conduits%20or%20through%20the%20reimbursement%20of%20domestic%20entity%20contributions&f=false.

Beginning in 2009, the flow of foreign money, especially from instrumentalities of the governments of Qatar, Saudi Arabia, and China, rose massively. Simultaneously, higher education institutions accelerated and strengthened their financial and operational partnerships with foreign governments, including repressive regimes hostile to American policies and interests by opening many new foreign campuses.

In 2011, the Federal Bureau of Investigation Counterintelligence Strategic Partnership Unit issued the white paper “Higher Education and National Security: The Targeting of Sensitive, Proprietary and Classified Information on Campuses of Higher Education.” It warned the sector, “Foreign adversaries and competitors take advantage of” the American higher education and research enterprise to “improve their economies and militaries by stealing intellectual property to gain advantages over the United States.”¹⁵ These nations “use varied means to acquire information and technology to gain political, military, and economic advantages” including recruiting individuals for “espionage,” exploiting the student visa program for “improper purposes,” and spreading false information for “political or other reasons.”¹⁶ Generally inadequate campus information technology and network security was also identified as a major security risk. The Department did not implement policies based on the FBI’s findings, to verify reporting accuracy, or to enforce the law against institutions. Congress again failed to conduct effective oversight.

Then, in February 2019, the U.S. Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs issued a comprehensive bipartisan report on Chinese Communist Party propaganda operations on U.S. campuses.¹⁷ *China’s Impact on the U.S. Education System* found these operations were part of “China’s broader, long-term strategy ... to change the impression in the United States and around the world that China is an economic and security threat.”¹⁸ Furthermore, these “soft power” operations encourage “complacency towards China’s pervasive, long-term initiatives against both government critics at home and businesses and academic institutions abroad.”¹⁹ It also found foreign government propaganda and influence efforts, in the form of “investments” in U.S. higher education industry are “effectively a black hole” because up to 70% of all U.S. colleges and universities fail to comply with the law, and those that do substantially underreport.²⁰ Congress also noted the Department’s historic failure to enforce the law.

15 “Higher Education and National Security: The Targeting of Sensitive, Proprietary, and Classified Information on Campuses of Higher Education.” *Federal Bureau of Investigation*, U.S. Department of Justice and Federal Bureau of Investigation, April 2011, p. 1, www.fbi.gov/file-repository/higher-education-national-security.pdf/view.

16 Ibid.

17 *China’s Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, [www.hsgac.senate.gov/imo/media/doc/PSI Report China’s Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China’s%20Impact%20on%20the%20US%20Education%20System.pdf).

18 *China’s Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, p. 1, [www.hsgac.senate.gov/imo/media/doc/PSI Report China’s Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China’s%20Impact%20on%20the%20US%20Education%20System.pdf).

19 Ibid.

20 *China’s Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, p. 70, [www.hsgac.senate.gov/imo/media/doc/PSI Report China’s Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China’s%20Impact%20on%20the%20US%20Education%20System.pdf). 21

B. Scope of the Problem

The higher education sector has self-reported over \$6.6 billion from Qatar, China, Saudi Arabia, and the United Arab Emirates, with the most recent July 31, 2020, reporting period yielding an additional \$1.05 billion reported from these countries alone. Based on Congressional and Executive Branch investigations, the Department believes this amount is a fraction of the true total.²¹ The risk to academic freedom, integrity, and independence posed such contributions has been historically ignored by regulators and overlooked or downplayed by the beneficiaries of foreign largess.²²⁻²³

Historically, fewer than 300 of the approximately 6,000 U.S. institutions self-report foreign money each year. Most foreign funds flow to a relatively small number of large institutions, many of which appear to have inadequately, or in some cases failed entirely, to report as required by law. A 2019 U.S. Senate subcommittee report described the industry's foreign funding sources and ventures as a "black hole."²⁴

The disclosure mandated by Section 117, and the law's robust enforcement, are essential because hostile governments and their instrumentalities have targeted the higher education sector for exploitation to infiltrate cutting-edge American research projects, influence curricula, and gain access to systems and information available through overseas "campuses" that receive less rigorous oversight than their domestic counterparts. Additionally, they recruit top American talent through talent programs or academic exchanges. For example:

- On July 20, 2020, the U.S. Attorney for the Northern District of California charged a visiting Stanford university researcher "with visa fraud in connection with a scheme to lie about her status as an active member of the People's Republic of China's military forces while in the United States conducting research at Stanford University."²⁵

21 P.L. 99-498, section 1206(a), October 17, 1986; 100 Stat. 1577 - 1579 (adding what was then section 1209 to the HEA (20 U.S.C. 1145d)).

22 As used in §117, the term "institution" is defined by §117(h)(4) of the HEA, 20 U.S.C. § 1011f(h)(4). The Department understands that to mean any "institution of higher education", as defined in §102(a) of the HEA, 20 U.S.C. 1002(a) that participates in the program of student financial aid under Title IV of the HEA.

23 The HEA generally uses (and defines) the term "institution of higher education", not "postsecondary institution," although §117 uses the term "institution," which it defines in §117(h)(4) without reference to either "higher education" or "postsecondary." The Department regards §117 as applying to all IHEs that participate in Title IV, which uses the term "institution of higher education."

24 China's Impact on the U.S. Education System. U.S. Senate Permanent Subcommittee on Investigations, www.hsgac.senate.gov/imo/media/doc/PSI_Report_China's_Impact_on_the_US_Education_System.pdf.

25 "Visiting Stanford University Researcher Charged with VISA Fraud." *U.S. Department of Justice*, 20 July 2020, <https://www.justice.gov/usao-ndca/pr/visiting-stanford-university-researcher-charged-visa-fraud>.

- On June 9, 2020, the Department of Justice indicted Harvard University’s Chemistry Chair for lying about his professional affiliation with the Thousand Talents Plan, a research recruitment program run by the Chinese government.²⁶⁻²⁷
- In 2018, a Chinese national who came to the US on a J-1 student visa for electrical engineering study at the Illinois Institute of Technology in Chicago, was arrested for illegally working as an agent of the People’s Republic of China.²⁸ He allegedly served a high-level intelligence officer in China’s Ministry of State Security, which “handles civilian intelligence collection and is responsible for counter-intelligence and foreign intelligence, as well as political security.”²⁹⁻³⁰
- Also in 2018, the Justice Department indicted nine Iranians affiliated with a Tehran-based company called the Mabna Institute for hacking into 144 American universities to steal sensitive data and intellectual property on behalf of the Islamic Revolutionary Guard Corps.³¹ First, the Iranians conducted online reconnaissance of university professors. Second, the Iranians sent “spear phishing” emails. Third, the conspirators used stolen account credentials to obtain unauthorized access to victim professor accounts, through which they then exfiltrated intellectual property, research, and other academic data and documents from the systems of compromised universities, including, among other things, academic journals, theses, dissertations, and electronic books. The defendants targeted data across all fields of research and academic disciplines, including science and technology, engineering, social sciences, medical, and other professional fields. At least approximately 31.5 terabytes of academic data and intellectual property from compromised universities were stolen and exfiltrated to servers under Iranian control.
- In 2017, a Virginia Tech professor of biological systems engineering was indicted for conspiracy to commit or defraud the United States.³² He and two associates provided false statements and certifications to the National Science Foundation (NSF). He submitted a proposal to NSF to receive federal funding for work that had already been completed in China, and it appeared that he “also sought to benefit China” through the project.³³

26 “Harvard University Professor Indicted on False Statement Charges.” *U.S. Department of Justice*, 9 June 2020, www.justice.gov/opa/pr/harvard-university-professor-indicted-false-statement-charges.

27 Indictment, *United States v. Lieber*, No. 20-cr-10111 (D. Mass. June 9, 2020).

28 Lighty, Todd. “How a Chicago College Student Ended up in the Middle of an FBI Investigation into Chinese Spying.” *Chicago Tribune*, 26 Sept. 2019, www.chicagotribune.com/investigations/ct-chinese-espionage-chicago-20190926-xh74yrhorzakjpsnojyx4aapfm-story.html.

29 Complaint, *United States v. Chaoqun*, No. 18-cr-00611 (N.D. Ill. Sept. 21, 2018).

30 McKay Aff., *United States v. Chaoqun*, No. 18-cr-00611 (N.D. Ill. Sept. 21, 2018).

31 Indictment, *United States v. Rafatnejad et al.*, No. 18-cr-00094 (S.D.N.Y. Feb. 7, 2018).

32 Seckers Aff. ¶ 35, *United States v. Yiheng Zhang*, 2019 WL 2779107 (D. Va. 2017) (No. 17-mj-00093).

33 Ibid.

Under Secretary DeVos' leadership, the Department has taken action to expose and redress the higher education's disturbing failure properly and transparently to report foreign money. To be clear, the Department's present institutional interests are limited to Section 117's transparency and disclosure requirements and the integrity of its higher education grant programs. Congress has not asked the Department to assess whether institutions' international entanglement has, on balance, served American interests or whether access to foreign money should be more effectively fettered. Obviously, responsible American college and university administrators and fundraisers should be sensitive to the relevant geopolitical context and properly scrutinize financial relationships that might serve as potential vehicles of adversarial foreign influence, particularly in dealings with strategic competitors.³⁴

Since June 28, 2019, Secretary DeVos has initiated 12 civil investigations to ensure institutional compliance with Section 117: Georgetown University, Texas A&M University, Rutgers University, Cornell University, University of Maryland, Massachusetts Institute of Technology, and most recently, Harvard University, Yale University, University of Texas, Case Western Reserve University, Fordham University, and Stanford University.³⁵ Since July 1, 2019, these investigations have prompted institutions to "catch up" on their reporting, amounting to \$6.5 billion of previously unreported foreign gifts and contracts, according to Department data.

The Department's concerns regarding the threat posed by foreign money and foreign interference to academic integrity, free speech on campuses, and national security are widely shared. For example, the White House Office of Science and Technology Policy has voiced concerns over "increasingly sophisticated efforts to exploit, influence, and undermine our research activities and environments."³⁶ In 2018, the National Institutes of Health sent letters to top research institutions regarding underreporting of foreign support amid foreign influence in U.S. biomedical research.³⁷

The U.S. Senate Permanent Subcommittee on Investigations has issued at least two major reports highlighting the threat posed by Confucius Institutes and Chinese talent recruitment plans.³⁸⁻³⁹

34 *Summary of the 2018 National Defense Strategy of The United States of America*. U.S. Department of Defense, 2018, <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>. Accessed 26 Feb. 2020.

35 *Section 117 of the Higher Education Act of 1965*. U.S. Department of Education, 12 Feb. 2020, www2.ed.gov/policy/highered/leg/foreign-gifts.html.

36 Droegemeier, Kelvin K. Executive Office of the President Office of Science and Technology Policy, September 2019, <https://www.whitehouse.gov/wp-content/uploads/2019/09/OSTP-letter-to-the-US-research-community-september-2019.pdf>.

37 Collins, Francis S. Department of Health and Human Services, [https://www.insidehighered.com/sites/default/server_files/media/NIH Foreign Influence Letter to Grantees 08-20-18.pdf](https://www.insidehighered.com/sites/default/server_files/media/NIH%20Foreign%20Influence%20Letter%20to%20Grantees%2008-20-18.pdf).

38 *China's Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, [www.hsgac.senate.gov/imo/media/doc/PSI Report China's Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf).

39 "Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans." *U.S. Senate Committee on Homeland Security and Governmental Affairs*, U.S. Senate Permanent Subcommittee on Investigations, 18 Nov. 2019, www.hsgac.senate.gov/.

The Department has taken strong efforts to promote effective interagency collaboration and cooperative use of existing government infrastructure, and the Department continues to pursue concerted efforts. An example of interagency collaboration is the Foreign Investment and National Security Act of 2007 (known as “FINSA”), which “authorizes the President to review mergers, acquisitions, and takeovers by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States, to determine the effects of such transactions on the national security of the United States,” as explained by the U.S. Department of the Treasury.⁴⁰ FINSA amended the Defense Production Act of 1950, and FINSA established the Committee on Foreign Investment in the U.S. (“CFIUS”), including a host of U.S. federal government agencies to control investment and evaluate national security risks associated with these financial transactions.⁴¹ Recently modified by the Foreign Investment Risk Review Modernization Act of 2018, FINSA provides an example of an existing forum for government agencies that can be used to further address malign foreign influence, particularly at institutions, since Section 117 data can be used to inform FINSA’s ongoing work.⁴² In summary, U.S. federal government agencies can and should be collaborating to better assess and address threats related to Section 117. The Department offers this report as a resource for other federal agencies that regularly address similar issues and aspire to collaborate with other agencies.

C. Recent History

Since 2000, the higher education industry has increased its entanglement with foreign adversaries, leading to correspondingly larger and more dangerous foreign threats to American academic freedom, national and economic security, and research integrity. Following the 9/11 terror attacks, Saudi Arabia began advancing Islamic ideology across the globe through multimillion-dollar donations to elite Western institutions, such as Harvard University and Cambridge University. Saudi Arabia began funding Middle Eastern National Resource Centers, a critical part of a Department program to prepare Americans to engage strategic languages, cultures, and governments to serve American strategic interests, at record levels.⁴³

At the same time, the sector took aggressive steps to increase foreign student enrollment. Some state-supported and private, nonprofit universities have even paid foreign “headhunters” a large contingency fee to find and enroll foreign students. An Australian study reported that, in 2007, the Chinese government sent approximately 500 Chinese military scientists to study at American schools “as part of a widespread

40 “Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons.” *U.S. Department of the Treasury*, Federal Register, 21 Nov. 2008, www.treasury.gov/resource-center/international/foreign-investment/Documents/CFIUS-Final-Regulations-new.pdf.

41 FINSA amended The Defense Production Act of 1950, so the Foreign Investment Risk Review Modernization Act of 2018 modified The Defense Production Act of 1950, in turn modifying FINSA.

42 Oleynik, Ronald A., et al. “FIRMA Expands CFIUS Jurisdiction in 2 Major Ways: Insights.” *Holland & Knight*, August 2018, www.hklaw.com/en/insights/publications/2018/08/firma-expands-cfius-jurisdiction-in-2-major-ways.

43 Gutfeld, Arnon. “The Saudi Specter over the American Education System.” Jerusalem Center for Public Affairs, 23 May 2019, jcpa.org/article/saudi-specter-over-american-education-system/.

effort to collect military technology.”⁴⁴ In 2010, a group of Russian government agents, 70% of which had attended U.S. universities, were convicted and plead guilty to acting as foreign agents.⁴⁵

Currently, the Chinese Communist Party sends Chinese students “under the guise of international scientific collaboration to systematically target critical technologies to advance China’s national security interests.”⁴⁶ The Chinese Ministry of Education even proposed a “patriotic education” initiative which enumerated studying abroad as a way for Chinese students to “serve the country.”⁴⁷ China also lures international scholars to advance its causes through the Thousand Talents Program designed to attract foreign scholarship by providing them research funding, salaries, and laboratory space, among other perks.⁴⁸

China’s infiltration of American higher education is increasingly evidenced by the number of American-based researchers recently charged with Chinese collaboration, as discussed previously. Furthermore, the U.S. federal government had identified a substantial uptick in Chinese espionage. The Department of Justice has filed over 20 criminal cases concerning economic espionage, trade secret theft, and research control since 2018.⁴⁹ Secretary of Defense Mark Esper asserted that China “is perpetrating the greatest intellectual property theft in human history,” as it pursues global military and technological supremacy.⁵⁰

America’s adversaries have long exploited the openness of American society, our deeply held belief in free inquiry and academic freedom, and the misjudgments of some higher education industry leaders to advance their institutional interests at the risk to American security.

44 The RSC National Security: Strengthening America & Countering Global Threats. Republican Study Committee, 2020, p. 15, [rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf](https://www.rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf).

45 Golden, Daniel. “Why Russian Spies Really Like American Universities.” ProPublica, 23 July 2018, www.propublica.org/article/why-russian-spies-really-like-american-universities.

46 The RSC National Security: Strengthening America & Countering Global Threats. Republican Study Committee, 2020, p. 8, [rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf](https://www.rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf).

47 Dukalskis, Alexander. “The Chinese Communist Party Has Growing Sway in Western Universities.” Democratic Audit, 3 Jan. 2018, www.democraticaudit.com/2018/01/04/the-chinese-communist-party-has-growing-sway-in-western-universities/.

48 *The RSC National Security: Strengthening America & Countering Global Threats*. Republican Study Committee, 2020, p. 13, [rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf](https://www.rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf).

49 *The RSC National Security: Strengthening America & Countering Global Threats*. Republican Study Committee, 2020, p. 10, [rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf](https://www.rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf).

50 *The RSC National Security: Strengthening America & Countering Global Threats*. Republican Study Committee, 2020, p. 8, [rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf](https://www.rsc-johnson.house.gov/sites/republicanstudycommittee.house.gov/files/%5BFINAL%5D%20NSTF%20Report.pdf).

D. Congressional Communications and Department Investigations

The Department has reported to Congress twice on foreign money underreporting. First, on February 28, 2019, Deputy Secretary Dr. Mitchell M. “Mick” Zais testified before the Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations.⁵¹ Second, on November 27, 2019, the Department sent a letter to Senator Rob Portman, Chairman of the U.S. Senate Permanent Subcommittee on Investigations. Building on Deputy Secretary Zais’ testimony, the letter outlined how six investigated universities failed to report over \$1.3 billion of foreign gifts and contracts over the past seven years, and in particular, the concerning nature of contracts with China, Qatar, and Russia.⁵² These initial reviews also revealed how one institution was pressured by a foreign government to hide its donations, another held an agreement with a foreign government to promulgate foreign propaganda, and others held direct agreements with the Chinese Communist Party. This report elaborates on the initial findings included within the letter to Chairman Portman.

Investigations of foreign influence within America’s education system have occurred across the U.S. government. The February 2019 Senate Permanent Subcommittee on Investigations Staff Report, “China’s Impact on the U.S. Education System,” highlighted the role of Chinese government interference at U.S. universities and schools and illuminated shortcomings in institutions’ foreign gift and contract reporting processes.⁵³⁻⁵⁴ It found that “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.” In fact, almost 70% of American schools that received more than \$250,000 from the Chinese education ministry, Hanban, “failed to properly report that information to the Department of Education,” according to the report.

Pursuant to its investigatory authority, the Department requested additional information from twelve institutions. Generally, the Department requested information concerning foreign gifts and contracts with particular foreign organizations and foreign governments of concern, records of compliance with Section 117 and other federal obligations, and IRS Form 990s and internal auditing records.

On June 28, 2019, the Department published a notice of investigation and record request in the Federal Register that formally launched investigations of Georgetown University and Texas A&M University.⁵⁵ Georgetown University was particularly directed to produce documents related to Chinese, Saudi Arabian, and Qatari foreign gifts and contracts. Texas A&M University was particularly directed to produce documents related to Chinese and Qatari foreign gifts and contracts. In both letters, contracts with organizations of concern were highlighted, such as Huawei and ZTE

51 Zais, Mitchell “Mick” M. https://www.hsgac.senate.gov/imo/media/doc/2019-02-28_Zais_Testimony_-_PSI.pdf.

52 Rubinstein, Reed. U.S. Department of Education Office of the General Counsel, November 2019, <https://www2.ed.gov/policy/highered/leg/psi-nov27-2019.pdf>.

53 *China’s Impact on the U.S. Education System*. U.S. Senate Permanent Subcommittee on Investigations, p. 70, www.hsgac.senate.gov/imo/media/doc/PSI_Report_China’s_Impact_on_the_US_Education_System.pdf.

54 Ibid.

55 Federal Register. U.S. Government Publishing Office, 28 June 2018. <https://www.govinfo.gov/content/pkg/FR-2019-06-28/pdf/2019-13904.pdf>.

Corporation. The Department sent another set of letters on July 19, 2019, to Cornell University and Rutgers University, requesting documents from similar sources.⁵⁶ Subsequently, additional investigations were opened into Yale University, Harvard University, University of Texas, Case Western Reserve University, Fordham University, and Stanford University. Yale University apparently failed to comply with federal reporting obligations when it underreported its foreign gifts and contracts by \$375 million, and Harvard University appears to possess inadequate institutional controls over its foreign donations and contracts.

Document productions are still being received and are being reviewed by the Department. Most recently, the Department has opened investigations into Fordham University and Stanford University, inquiring about millions of dollars in anonymous Chinese donations received by Stanford University and incoherence between universities' global involvement and nearly nonexistent foreign gift and contract reporting at Fordham University. These investigations — at Fordham and Stanford — are ongoing, and document productions have not yet been fully received by the Department, so findings from these investigations are not included within this report.

E. Initial Review

The Department has announced 12 Section 117 investigations. The Department has conducted an initial review of various documents including contracts, financial records, and institutional practices provided by six of the institutions: Georgetown University, Texas A&M University, Cornell University, Rutgers University, Massachusetts Institute of Technology, and the University of Maryland. Findings from Harvard University, Yale University, University of Texas, and Case Western Reserve University have largely not been included because review of these institutions' document productions was ongoing at the time of this report's publication, but some facts about their reporting compliance, as noted in the investigatory letters sent to the institutions, are occasionally referenced. Document productions had not been received from Fordham University and Stanford University at the time of this report's publication, so findings from these investigations are currently unavailable.

The Department's review, located within this report, is not "audit or litigation grade" and does not allege criminal activity by any institution, nor does it necessarily indicate a referral or intent to refer any matters to the Department of Justice, as any such referrals would occur separately from this review. The Department's review shines a spotlight on previously unknown foreign gifts and contributions, their prevalence and magnitude, and the consequences of porous or nonexistent institutional oversight and lax federal enforcement. Stanford University, for example, has reported over \$64 million in unidentified, anonymous Chinese donations since May 2010 (when Stanford ceased reporting foreign donor names).⁵⁷ Perhaps most disturbing are apparent efforts by some institutions to avoid public scrutiny of their receipt of foreign dollars by failing to disclose or maintain appropriate internal controls. The Department is now addressing years of previously unknown, substantial disclosure reporting errors, beginning with these 12 investigations.

56 Federal Register. U.S. Government Publishing Office, 19 July 2019. <https://www.govinfo.gov/content/pkg/FR-2019-07-19/pdf/2019-15425.pdf>.

57 Rubinstein, Reed. "Letter to Stanford University." Received by Marc Tessier-Lavigne, U.S. Department of Education, 10 Aug. 2020, <https://www2.ed.gov/policy/highered/leg/stanford-20200810.pdf>.

III. OBSERVATIONS

A. Institutions' Resources.

Institutions — and their related entities (i.e., any legal entity, including foundations or organizations that operate substantially for the benefit for or under the auspices of institutions) — are multinational, multibillion-dollar enterprises.

A.1. IRS Form 990s.

Generally, institutions are well-funded, influential research producers, very often with opaque foreign gift and contract reporting practices. [REDACTED]

[REDACTED] reported incomes in 2017 that exceeded \$1 billion while, in the same reporting period, one institution reported over \$20 billion of net income. [REDACTED]

six investigated institutions reported at least \$100 million of yearly income.

Institutions' outgoing cash to regions such as East Asia and the Pacific, the Middle East and North Africa, and Russia and Neighboring states is also remarkable, and while not necessary to report under Section 117, these cash flows demonstrate a significant global scope for these schools. [REDACTED]

for example, sent \$12 million abroad and received \$196 million of foreign gifts and contracts in 2014 alone, according to financial documents received by the Department.⁵⁸ Incoming and outgoing institutional dollars recorded by Form 990s demonstrate that foreign influence on institutions is measured by millions and billions of dollars. Although gifts and contracts do not necessarily equal influence, gifts and contracts create opportunities for foreign influence.

A.2. Harvard "Q71 data" – \$1,143,899,998 since 2012.⁵⁹

Demonstrating foreign financial involvement with top U.S. research institutions, Harvard University alone has received over \$1 billion of foreign funding since 2012.⁶⁰ As the Department is currently conducting an investigation, the Department cannot confirm whether these numbers accurately reflect the entirety of Harvard's foreign funding. Harvard's self-professed improper vetting of domestic contributions raises questions about its foreign gifts and contract

58 The Department believes that cash-out agreements can fall under Section 117 reporting requirements. Cash being sent abroad may be part of contract that would fall under Section 117's purview. Currently, it can be difficult to ascertain whether these agreements should be reported without further Department investigation.

59 Section K, question 71 ("Q71") of the electronic application ("E-App"), the Department's online IHE reporting system, accepts IHEs' data about foreign gifts and contracts or foreign ownership and control.

60 The Department acknowledges that some foreign gifts and contracts that may comprise this foreign funding may fall below the reporting threshold.

reporting procedures.⁶¹ By the institution's own standards, the Department's pressure on, and evaluation of, Harvard's current foreign gift and contract reporting mechanisms should be considered reasonable.

A.3. Data on Gift Reporting

Q71 data reveals the level of granularity in institutions' financial reporting.⁶² Institutions and representative organizations have expressed concerns about unclear or cumbersome reporting processes, but the data demonstrate that institutions are capable of reporting gifts and contracts below the \$250,000 threshold. Universities can account for and report transactions as low as \$1, according to the Department's historical foreign gifts data.⁶³ However, capability does not translate into compliance. Underreporting remains a pervasive problem, despite many major universities possessing sophisticated and fully capable accounting systems.

B. Inadequate Reporting.

Reporting fails to comply with HEA, Section 117 and is otherwise incomplete and inaccurate.

B.1. [REDACTED] letter [REDACTED]

[REDACTED] admitted that its disclosures to the Department failed to document more than \$760 million in funding for an entire educational institution [REDACTED]. University officials chose the word "dumbfounded" to explain this reporting error and provided no explanation. Universities' lack of awareness about their own reporting processes is consequential. This single omission led to an incomplete and inaccurate picture of [REDACTED] foreign funding. [REDACTED] which informs concerns about the broader reporting errors across institutions, especially [REDACTED] was unable properly to account for its foreign gifts and contracts.

B.2. U.S. Senate Permanent Subcommittee on Investigations Committee on Homeland Security and Governmental Affairs Report on Confucius Institutes.

Incomplete and inaccurate understandings of institutions' foreign funding hinder timely assessment of how these gifts and contracts could undermine U.S. academic and security interests. Embodying concerns about national security and China leveraging soft power within U.S. institutions, the Confucius Institute was identified as an organization of particular concern by the U.S.

61 Bacow, Lawrence S. "A Message to the Community Regarding Jeffrey Epstein." *Harvard University*, 12 Sept. 2019, www.harvard.edu/president/news/2019/message-to-community-regarding-jeffrey-epstein. It is currently unclear if, under Section 117, Harvard should have reported Epstein's donations, which may have originated from a foreign source, but Epstein's donations are a high-profile example illustrating the presence of unexamined "dark money" in the U.S. education system.

62 Section K, question 71 of the electronic application or "E-App," the Department's online IHE reporting system, accepts IHEs' data about foreign gifts and contracts or foreign ownership and control.

63 *Section 117 of the Higher Education Act of 1965*. U.S. Department of Education, 12 Feb. 2020, www2.ed.gov/policy/highered/leg/foreign-gifts.html.

Senate Permanent Subcommittee on Investigations. Funded by and using materials approved by the Chinese government, Confucius Institutes offer international audiences Chinese language instruction and cultural activities.

The February 2019 report illuminated how Confucius Institutes, operated on American campuses by China's education ministry, were political instruments of the Chinese state. "Confucius Institute funding comes with strings that can compromise academic freedom," according to the report.

Confucius Institutes have been established at alarmingly exponential rates since 2004.⁶⁴ The Permanent Subcommittee on Investigations (PSI) reported that China provided over \$158 million of funding to place and operate Confucius Institutes on U.S. campuses.⁶⁵ Despite Beijing's heavy spending, institutions' reporting was lax. The report observed how "U.S. schools failed to comply with statutory requirements to report foreign gifts to the Department of Education." Nearly 70% of "schools required to file reports with the Department of Education failed to report Hanban gifts, contracts, or contributions in excess of \$250,000," exemplifying a much wider problem of underreporting across institutions.⁶⁶

The Department can specifically confirm three findings from the PSI report: U.S. schools systematically failed to comply with statutory requirements to report foreign gifts to the Department; the Department did not conduct regular oversight of U.S. schools' compliance with required foreign gift reporting; and the Department failed to update U.S. school reporting requirements. Our report confirms that U.S. schools alarmingly fail to meet statutory requirements to report foreign money, measured in the billions of dollars of unreported gifts and contracts.

PSI's final two observations are currently being addressed by the Department. First, the Department is correcting a historically nonexistent record of compliance through these eight institutional investigations. Second, the Department published for public comment a modern and robust information collection under the Paperwork Reduction Act to promote compliance and transparency.⁶⁷ The new reporting portal was mandatory for the foreign money reports due by July 31, 2020, which yielded a significant increase in compliance with reporting obligations. These actions demonstrate the Department's renewed commitment to ensuring that institutional foreign gift and contract reporting is complete and compliant with Section 117 requirements.

64 Jakhar, Pratik. "Confucius Institutes: The Growth of China's Controversial Cultural Branch." BBC News, BBC, 7 Sept. 2019, www.bbc.com/news/world-asia-china-49511231.

65 China's Impact on the U.S. Education System. U.S. Senate Permanent Subcommittee on Investigations, p. 2, [www.hsgac.senate.gov/imo/media/doc/PSI Report China's Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf).

66 China's Impact on the U.S. Education System. U.S. Senate Permanent Subcommittee on Investigations, p. 3, [www.hsgac.senate.gov/imo/media/doc/PSI Report China's Impact on the US Education System.pdf](http://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf).

67 "Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Gifts and Contracts Disclosures." Federal Register, U.S. Government Publishing Office, 10 Feb. 2020, www.federalregister.gov/documents/2020/02/10/2020-02574/agency-information-collection-activities-submission-to-the-office-of-management-and-budget-for?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

B.3. Institutions' investigatory data is not consistent with reported Q71 data.

Prompting investigation, ██████████ failed to report over \$1.2 billion. By ██████████ own admission ██████████, it failed to report foreign gifts and contracts involving ██████████ later discovered that even more foreign funds had been underreported. Only as a result of other Section 117 investigations ██████████ was compelled to rectify this reporting error. Q71 data does not appear accurately to capture universities' foreign gifts and contracts reporting because since reporting has been largely incomplete or nonexistent before enforcement by the Department.

Beyond ██████████, institutions played catch-up and reported \$6.5 billion of foreign gifts and contracts since July of 2029, when Section 117 compliance investigations were first opened. This statistic exemplifies how institutions are both recognizing the gravity of Section 117 compliance and that institutions are largely capable of reporting these foreign gifts and contracts when they choose to do so. Yale additionally failed to report its foreign gifts and contracts for four years, then retroactively reported them.

C. Inadequate Accounting Processes.

Institutions do not have adequate accounting processes for complying with HEA, Section 117.

C.1. ██████████ description and its defects.

██████████ provided the Department with a detailed account of its auditing processes. Although the institution records inbound and outbound financial transactions adequately, its financial ledger systems are not fully integrated with its contracts/agreements management systems. Hence, tracing specific financial transactions to specific contracts/agreements requires manual analysis, which has the effect of degrading the accuracy and reliability of HEA, Section 117, reporting.

██████████ yet even its accounting procedures do not appear to fulfill reporting obligations.⁶⁸ ██████████ little confidence can be held in reporting processes across America's wide range of universities and colleges with fewer resources. This is not to suggest that compliance with statutory reporting requirements is unattainable; rather, the Department is concerned that universities are not properly structuring and supporting their accounting processes to achieve compliance.

C.2. ██████████ student aid officer.

A string of confused exchanges between ██████████ prompted concern over universities' internal, standardized reporting mechanisms. According to records obtained by the Department, university officers debated interpretation of Department regulations, causing division over ██████████

reporting requirements, because there was no point-person who facilitated Section 117 compliance at the time. Documents provided to the Department show administrators deliberating over who is responsible for overseeing Section 117 reporting, so one employee unfamiliar with the Section 117 reporting process offered to quickly learn about it and oversee the process. Resulting disputes included the definition of a “restriction,” among other fundamental matters to labeling and processing foreign gifts and contracts. In such cases of confusion, risks persist that certain gifts and agreements will be left out of the reporting process or improperly recorded in accordance with Department stipulations. These examples suggest that universities may not be adequately prioritizing and adapting to meet their reporting obligations and, consequently, lack the institutional tools — even as minor as identifying a project coordinator for the reporting process — to achieve compliance.

C.3. [REDACTED] process description.

[REDACTED] explanation of its processes for reporting foreign gifts and contracts suggests that some institutions, including institutions receiving significant amounts of foreign gifts and contracts, may not have adequate accounting processes for complying with Section 117. Without third-party verification of accounting mechanisms, institutional controls — no matter how sophisticated — may not properly integrate foreign gifts or contracts into their systems to report all agreements that would be subject to Section 117 reporting requirements.

D. Limited Oversight for International Business.

Institutions — and their related entities — do business with foreign governments and persons with limited oversight.

D.1. Q71 Data is incomplete.

Although institutions have demonstrated their ability to record financial transactions with great detail — albeit imperfectly — Q71 data does not provide a complete picture of their foreign gifts and contracts. Many institutions have been catching up with their reporting, retroactively submitting records of foreign gifts and contracts, but Q71 data is intended to capture universities’ foreign gift and contracts in the requested timeframe.

The Department found that during the July 31, 2020, reporting cycle institutions reported approximately \$2 billion of “late transactions,” which should have been disclosed before the July 31, 2020, reporting deadline.⁶⁹

Since the Department began its enforcement efforts, many institutions have been “catching up” with their foreign gift and contract reporting by retroactively reporting foreign gifts and contracts. Case Western Reserve University, which received an investigatory notice in May 2020, failed to report a single foreign gift or contract to the Department over a more than 12-year period.⁷⁰ Case Western Reserve University reported these transactions many

69 For example, if, during the July 31 reporting period, an institution chose to report a contract that ended in 2017, this report would be considered a “late transaction.”

70 Rubinstein, Reed. “Letter to Case Western Reserve University.” Received by Barbara R. Snyder, U.S. Department of Education, 27 May 2020, www2.ed.gov/policy/highered/leg/cwru-20200527.pdf.

years later, but significantly postponing the reporting of foreign gifts and contracts violates efforts to promote public transparency. Yale University also retroactively reported many of its foreign gifts and contracts, but this does not fulfill its obligation to report its gifts and contracts for the preceding six months, twice a year. Timely disclosures are not only statutorily required but may be essential to national security considerations and other agency transparency efforts.

D.2. [REDACTED] gift procedures.

Rather than increasing internal scrutiny of foreign money, [REDACTED] attempted to reduce its own foreign gift and contracts oversight burdens. [REDACTED] established its [REDACTED] to evaluate [REDACTED] of certain foreign gifts and contracts. [REDACTED] arm apparently increase the monetary threshold meriting committee review of foreign gifts and contracts, effectively reducing the committee's workload. [REDACTED] proposal would have raised the standard of "suspect" from [REDACTED]. The legal threshold for reporting, however, is \$250,000. [REDACTED] proposal would substantially decrease the body of foreign gifts and contracts closely reviewed by university staff. This example illustrates a broader concern across institutions that foreign gifts and contracts are not being carefully evaluated by institutions even when reported.

E. Ties to National Security Risks.

Institutions regularly work with foreign entities known or suspected to present national security risks.

E.1. Huawei – nearly all investigated institutions.

Chief among these security concerns is Huawei, a heavily state-influenced technology company based in Shenzhen, China, which has become the largest global retailer of telecommunications equipment. Huawei became a household name not only because of its products' international presence but because of these products' potential enablement of foreign espionage.⁷¹ Huawei's corporate structure includes a Party Committee that "exerts influence, pressure, and monitoring of corporate activities" for the Chinese Communist Party, according to subject experts.⁷² Huawei has admitted to receiving "support from the Chinese government," and *The Wall Street Journal* reported how \$75 billion in Chinese government grants promoted Huawei's global prowess, making its presence a potential tool of the Chinese government and

71 Maizland, Lindsay, and Andrew Chatzky. Huawei: China's Controversial Tech Giant. Council on Foreign Relations, 12 Feb. 2020, www.cfr.org/backgrounders/huawei-chinas-controversial-tech-giant.

72 *Investigative Report on the U.S. National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE*. U.S. Senate Permanent Select Committee on Intelligence, 8 Oct. 2012, fas.org/irp/congress/2012_rpt/huawei.pdf.

grave national security concern in the U.S. and abroad.⁷³⁻⁷⁴ Beyond Huawei, Article 28 of China’s 2016 Cybersecurity Law requires, “Network operators shall provide technical support and assistance to public security organs and national security organs that are safeguarding national security and investigating criminal activities in accordance with the law.”⁷⁵ Meaning, Chinese companies can be tapped by the Chinese Communist Party to serve any stated “patriotic” cause.

[REDACTED]
[REDACTED] all reported at least one contract with or donation from the Chinese technology giant, Huawei.⁷⁶ [REDACTED] for example, reported nearly \$1 million of agreements, while [REDACTED] held nearly \$11 million in contracts and agreements with Huawei since 2013, ranging from research agreements to donations for specific [REDACTED] research projects and programs. [REDACTED], Huawei was also a dues-paying member of [REDACTED], an official university program [REDACTED]
[REDACTED]

Across these investigated universities, many of these Huawei agreements and gifts strategically concerned sensitive topics like nuclear science or those related to competitive industries like robotics, semiconductors, and online cloud services. For example, Huawei made several hundred thousand dollars of donations towards [REDACTED], applied physics research at [REDACTED], and cutting-edge research projects at the [REDACTED].

E.2. Central Committee of the Communist Party of the People’s Republic of China at [REDACTED]

Institutions have directly entered into agreements with foreign governments, even repressive governments that are often hostile to American national security interests, such as China. For example, the Central Committee of Communist Party of the Peoples’ Republic of China has been under contract with [REDACTED] since 2006. Based on the last available IRS Form 990 obtained through the Department’s investigation of [REDACTED], [REDACTED] derived \$2,360,807 from [REDACTED], demonstrating significant intermingling with the People’s Republic of China. Further, the Party School of the Central Committee of the Communist Party of China entered into an academic exchange agreement with [REDACTED]

73 “Huawei Says Relationship with Chinese Government ‘No Different’ from Others.” *South China Morning Post*, 26 Dec. 2019, www.scmp.com/tech/big-tech/article/3043558/huawei-says-relationship-chinese-government-no-different-any-other.

74 Ibid.

75 “China Initiative Conference,” U.S. Department of Justice and Center for Strategic and International Studies. 6 Feb. 2020, Washington, D.C., <https://www.youtube.com/watch?v=M1dtxt82HFE>.

██████████. The Party School of the Central Committee of the Communist Party is a Chinese government-run institution, which exclusively trains officials who are joining, or are already within, echelons of the Communist Party of China.

██████████ agreement was established to discuss areas of joint interest, bringing speakers from, and hosting events in, both China and the United States. Chinese and American scholars were scheduled to share findings from respective academic research projects that could provide the Chinese government direct access to U.S. research and lend legitimacy to Chinese government propaganda masked as scholarship.

Additionally, ██████████ entered into an agreement with the State Administration for Religious Affairs of the People's Republic of China to train public officials. The State Administration's presence might imply the existence of religious pluralism within China, but the State Administration is charged with tightly regulating religious expression.

According to ██████████ itself, China recognizes only five official faiths, and these religions are overseen by government-run Religious Patriotic Associations and face further internal regulations or displacement to guarantee their allegiance to the Chinese government.⁷⁸ These agreements raise questions about how U.S. research institutions may be enabling foreign agendas domestically and abroad. The Department does not seek to monitor these exchanges or direct institutional curricula, for example, but it is responsible for ensuring that institutional reports are readily available and reviewable by the public at large, if they meet the reporting thresholds under Section 117.

E.3. Kaspersky at ██████████ ; Skolkovo Institute of Science and Technology at ██████████ .

██████████ either received funding from a Russian government affiliate or entered into technology agreements with the Russian government. The Russian government is infamous for initiating large-scale hacks against foreign governments and corporate entities and for ignoring international cybersecurity norms. Russia is also identified as a strategic competitor in the 2018 National Defense Strategy.⁷⁹

██████████ accepted a \$25,000 sponsorship from Kaspersky Government Security Solutions, a cybersecurity company with suspected ties to the Russian government, to host ██████████. Kaspersky Government Security Solutions is a Moscow-based cybersecurity company whose services are employed worldwide; in 2017, the Department of Homeland Security expunged Kaspersky products from U.S. government servers due to "ties between certain Kaspersky officials and

79 Summary of the 2018 National Defense Strategy of The United States of America. U.S. Department of Defense, 2018, <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>. Accessed 26 Feb. 2020.

Russian intelligence and other government agencies.”⁸⁰ A document leaked by a suspected Russian cybercriminal revealed cooperation between the Russian government’s Federal Security Service (FSB) – which conducts Russia’s intelligence and security affairs – and Kaspersky Lab, the parent company of Kaspersky Government Security Solutions.⁸¹ This document relayed how a Russian FSB agent and a Kaspersky Lab technician cooperated to access decrypted documents for the Russian government agent. Kaspersky alleges independence from the Kremlin, but credible documentation continues to suggest otherwise.⁸²

Another example of sensitive research cooperation is illustrated within ██████████ foreign gifts and contracts. The Skolkovo Institute of Science and Technology – also known as “Skoltech” – was founded in conjunction with ██████████. The research institution is one part of a larger project launched by Russian President Dimitry Medvedev in 2010 aimed at empowering Russia’s technology sector and attracting foreign investment.⁸³ This graduate institution facilitates academic exchange and cooperation between Russian and American graduate students and professors from ██████████ regarding key technology topics like oil and gas extraction, biomedical research, communication infrastructure, energy research, manufacturing, and space technology. Its board of directors consists of high- ranking Russian government officials, and Americans are scarcely represented on the Board of Trustees.⁸⁴ For example, its Chairman, Arkady Dvorkovich, most recently served as Appointed Deputy Prime Minister of the Russian Federation under Prime Minister Dimitry Medvedev (who transitioned from his previous position as President). Beyond the Russian government, Skoltech operates joint labs with American watchlist institutions like Huawei.⁸⁵⁻⁸⁶ In sum, institutions are conducting sensitive research in

80 Pham, Sherisse. “Kaspersky: U.S. Government Orders Removal of Russian Firm’s Software.” CNNMoney, Cable News Network, 14 Sept. 2017, money.cnn.com/2017/09/14/technology/kaspersky-software-federal-government-order/index.html.

81 Nakashima, Ellen. “Court Document Points to Kaspersky Lab’s Cooperation with Russian Security Service.” *The Washington Post*, WP Company, 13 Dec. 2017, www.washingtonpost.com/world/national-security/court-document-points-to-kaspersky-labs-cooperation-with-russian-security-service/2017/12/13/14ba9450-df42-11e7-bbd0-9dfb2e37492a_story.html.

82 Robertson, Jordan, and Michael Riley. Kaspersky Lab Has Been Working With Russian Intelligence. Bloomberg, 11 July 2017, www.bloomberg.com/news/articles/2017-07-11/kaspersky-lab-has-been-working-with-russian-intelligence.

83 “Skolkovo Institute of Science and Technology: About.” *Skoltech*, www.skoltech.ru/en/about/mission-and-strategy-2/.

84 “Skolkovo Institute of Science and Technology: Board of Trustees.” *Skoltech*, www.skoltech.ru/en/about/board-of-trustees/.

85 “Skolkovo Develops R&D and Venture Projects with Chinese Players.” *East-West Digital News*, 26 Oct. 2018, <https://www.ewdn.com/2018/10/26/skolково-develops-rd-and-venture-projects-with-chinese-players/>.

86 Dunleavy, Jerry. “Pentagon Releases ‘Initial’ List of Chinese Military-Linked Companies Operating in US.” *Washington Examiner*, 29 June 2020, www.washingtonexaminer.com/news/pentagon-releases-initial-list-of-chinese-military-linked-companies-operating-in-us.

conjunction with an adversarial government that, while the Department does not police subject matter, the public should be aware of such partnerships that concern national security.

E.4. HNA Corporation “Talents” Program at [REDACTED]

HNA Corporation, a Chinese company spanning multiple industries including airline and tourism, offered \$15 million of scholarships to [REDACTED] students through the HNA Group International “Talents Scholarship” Fund. This is not the same program as the Thousand Talents Program, but it was created for a similar purpose. In this case, an employment pipeline existed between [REDACTED] and HNA Corporation so scholarship recipients would be given preferred hiring status when applying for jobs at HNA Corporation. The scholarship program is one part of a bigger mission to recruit international students to work at HNA Corporation through programs like [REDACTED]

HNA Corporation was founded by a Communist Party official, and it currently operates its own Communist Party committee (a professional association committed to advancing the Party’s agenda). In 2018, HNA Chairman Chen Feng proclaimed that HNA Corporation would “consciously safeguard the Communist Party’s central authority with General Secretary Xi Jinping as the core” and “unswervingly follow the party.”⁸⁷ Beyond close fellowship with the Chinese Communist Party, HNA Corporation has been the subject of numerous allegations of corruption, which resulted in U.S. government sanctions and forced divestment.⁸⁸⁻⁸⁹

E.5. Center for Muslim-Christian Understanding at Georgetown University.

[REDACTED] Saudi Arabian Prince Alwaleed Bin Talal gave Georgetown University [REDACTED] to establish the Prince Alwaleed Bin Talal Center for Muslim-Christian Understanding. This Center seeks to promote Islamic civilization’s image in the United States, to disseminate findings through scholarship and holding academic events.

The Center for Muslim-Christian Understanding brewed controversy from its inception. Congressman Frank R. Wolf wrote a letter to Georgetown’s President, Dr. John J. DeGioia, expressing concern that the center could advance Islamic ideology in a fashion that belittles opposition, threatens academic integrity, and improperly influences future civil servants. The Center also received criticism for deceptively labeling itself as pluralistic; according to critics, the “Christian” studies portion of the center was a “misnomer” as there

87 “HNA Holds Its Own Communist Party Congress amid Debt Woes.” *South China Morning Post*, 9 Feb. 2018, www.scmp.com/news/china/economy/article/2132724/hna-holds-its-own-communist-party-congress-rally-support-amid.

88 Gertz, Bill. *Chinese Conglomerate Facing U.S. Sanctions*. Washington Free Beacon, 13 Feb. 2018, freebeacon.com/national-security/chinese-conglomerate-facing-u-s-sanctions/.

89 “U.S. Tells China’s HNA to Sell Stake in NYC Building near Trump Tower: WSJ.” *Business Insider*, 11 Aug. 2018, www.businessinsider.com/r-us-tells-chinas-hna-to-sell-stake-in-nyc-building-near-trump-tower-wsj-2018-8.

was no Christian representation.⁹⁰ Additional worries spawned from Saudi Arabian infiltration of an institution commonly known to siphon graduates into government employment.⁹¹ Such concerns were salient because the Saudi Arabians had communicated that their money would “follow” the Center’s first Director.⁹² This strategy of funding a particular director is concerning, as it would allow a foreign government unduly to guide the Center’s content.

This donation empowered the Saudi Arabian government to advance a particular narrative about Islamic society to the West via a legitimate Western institution like Georgetown University. “Soft power” is a political science term that explains states’ “ability to affect others to obtain the outcomes one wants through attraction...” and continues to explain, “a country’s soft power rests on its resources of culture, values, and policies.”⁹³ Saudi Arabian “soft power” efforts were on display through Prince Alwaleed’s efforts [REDACTED]

[REDACTED]. Worries over soft power were manifest by Karen Hughes, Under Secretary of State for Public Diplomacy and Public Affairs during the George W. Bush Administration admission that she was “influenced by the center. The Saudi Arabian government had successfully impacted American foreign policy thinking through money alone.⁹⁴

The Saudi Arabian government invested significantly into the dissemination of its favored ideological views at Georgetown University and several other U.S. academic institutions. Prince Alwaleed has made considerable international donations and has conducted similar soft power operations by creating Islamic studies centers at the University of Cambridge and Edinburgh University located in the United Kingdom, for examples. Prince Alwaleed’s controversial and political past, ranging from anti-Zionism to handsomely rewarding Saudi Arabians who participated in Yemen bombing raids, shadows him and his donations.⁹⁵⁻⁹⁶

90 Gutfeld, Arnon. “The Saudi Specter over the American Education System.” *Jerusalem Center for Public Affairs*, 23 May 2019, jcpa.org/article/saudi-specter-over-american-education-system/.

91 Gutfeld, Arnon. “The Saudi Specter over the American Education System.” *Jerusalem Center for Public Affairs*, 23 May 2019, jcpa.org/article/saudi-specter-over-american-education-system/.

92 Strauss, Valerie. “\$20 Million Saudi Gift Is Questioned [on the Prince Alwaleed Bin Talal Center for Muslim-Christian Understanding, John Esposito.” *Campus Watch*, Middle East Forum, 15 Feb. 2008, www.meforum.org/campus-watch/12534/20-million-saudi-gift-is-questioned-on-the-prince.

93 Nye, Joseph S. “Public Diplomacy and Soft Power.” *The ANNALS of the American Academy of Political and Social Science*, vol. 616, no. 1, 2008, pp. 94-109., doi:10.1177/0002716207311699.

94 “Letter from U.S. Representative Frank R. Wolf.” Received by Dr. John J. DeGioia, 14 Feb. 2008. <https://www.investigativeproject.org/documents/misc/98.pdf>.

95 @Alwaleed_Talal. Twitter, 24 July 2015, https://twitter.com/Alwaleed_Talal/status/624673337512476672?ref_src=twsrc%5Etfw.

96 Loveluck, Louisa. “Saudi Prince Criticised for Offering Bentleys to Pilots Bombing Yemen.” *The Telegraph*, Telegraph Media Group, 23 April 2015, www.telegraph.co.uk/news/worldnews/middleeast/saudi-arabia/11558419/Saudi-prince-criticised-for-offering-Bentleys-to-pilots-bombing-Yemen.html.

Prince Alwaleed's agreement with Georgetown exemplifies how foreign money can advance a particular country's worldview within U.S. academic institutions – influence that has often remained undisclosed to American taxpayers as required by Section 117. In the 1980's, similar soft power initiatives across U.S. institutions from Middle Eastern countries initially prompted organizations and lawmakers to draft Section 117. This statute remains highly relevant today.

E.6. Alibaba contracting with the ██████████ to develop new algorithms for crowd surveillance capabilities.

Alibaba is a Chinese company that ranks among the world's largest retailer and e-commerce enterprises. Its founder and Chairman, Jack Ma, is a member of the Chinese Communist Party, and the company is a close partner of the Chinese government.⁹⁷ In 2017, China's Ministry of Science and Technology selected Alibaba as one of four government-backed, private-sector companies that would capitalize on a government-selected corner of the artificial intelligence market.⁹⁸ Furthermore, the Chinese government strategically placed government workers in Alibaba and nearly 100 other Chinese technology companies, prompting observers to note how it appears that the Chinese government is consolidating control over its technology sector.⁹⁹⁻¹⁰⁰

By its own proclamation, Alibaba has been taking an increasingly involved role in academic research, both within China and abroad. ██████████ into an agreement with Taobao and Alibaba regarding "Large-Scale Behavior Learning for Dense Crowds." This research project harnessed ██████████ graduate students to classify the personalities and gaits of individual pedestrians within crowds. This "behavior learning" project would allow the algorithm's holder to "predict the behavior of individuals and their interactions with the environment to capture realistic, heterogeneous crowd behaviors." The ██████████ graduate students would also visit Alibaba labs in China and participate in further collaborative and exchange programs throughout the duration of the agreement.

This agreement raises concerns that China seeks to leverage its relationships with American universities to dominate a global market – in this case, the facial recognition market and the artificial intelligence market, at large. China domestically employs and internationally exports these technologies and products. Chinese products have been acquired by some African countries, which have already begun installing surveillance cameras loaded with Chinese

97 Institutions required to report under Section 117 are essentially required to be transparent. It is not the Department's responsibility to choose which organizations with which institutions may contract; ideally, institutions' leadership will take greater responsibility in making thoughtful decisions about foreign partnerships.

98 Larsen, Benjamin. "Drafting China's National AI Team for Governance." *New America*, Stanford-New America DigiChina Project, 18 Nov. 2019, www.newamerica.org/cybersecurity-initiative/digichina/blog/drafting-chinas-national-ai-team-governance/.

99 "Alibaba's Jack Ma Is a Communist Party Member, China State Paper Reveals." *Reuters*, Thomson Reuters, 27 Nov. 2018, www.reuters.com/article/us-alibaba-jack-ma-idUSKCN1NW073.

100 Taylor, Chloe. *China to Place Government Officials inside 100 Private Companies*, Including Alibaba. CNBC, 23 Sept. 2019, www.cnbc.com/2019/09/23/china-to-place-government-officials-in-100-companies-including-alibaba.html.

facial recognition technologies.¹⁰¹ Within China itself, it is estimated that 626 million facial recognition cameras will be operating by 2020.¹⁰² The recent COVID-19 outbreak made Chinese government surveillance even more pervasive. Amid the public health crisis, one Chinese technology company, Hanwang, developed facial recognition software that could identify faces hidden behind masks with 95% accuracy.¹⁰³ This technology was utilized by the Chinese Ministry of Public Security, prompting concerns about future oppressive uses against minority groups in China. And this technology is arguably similar to that being jointly developed by [REDACTED] and Alibaba.

To add political context, the Chinese government has a troubling record of suppressing minorities and people with ideologies that appear threatening to the Chinese government. Such suppression is enabled by surveillance and identification of targeted groups, such as the Uyghur, Kazakh, or Kyrgyz minority groups. It is estimated that as many as 1.5 million Uyghurs, a Turkic minority group in China with Islamic cultural roots, have been detained in Chinese “reeducation” camps.¹⁰⁴ This group of people is especially identifiable by their dress — a hijab, for example, worn by Muslim women. For this reason, algorithms like the one being jointly developed by Alibaba and [REDACTED] could empower more Chinese government surveillance and oppression of vulnerable minorities like them. China has actively been employing technology to gather data about, surveil, and suppress minority populations, and American educational institutions should be concerned that China may seek partnerships with U.S. institutions towards these ends.¹⁰⁵

This agreement between [REDACTED] and Alibaba exemplifies how institutions’ agreements with foreign companies can exploit the openness of America’s research institutions to serve malicious purposes. This translates into foreign government access to American research projects and use of technology, created in part by American institutions, to oppress or control the people of China — and, conceivably, beyond. It is known that China lawlessly cultivates products in competitive markets, so these technologies will be copied and pasted for whatever purposes the Chinese government chooses, likely irrespective of international laws and norms. Four former U.S. Secretaries

101 Yang, Yuan, et al. “Chinese Tech Groups Shaping UN Facial Recognition Standards.” *Financial Times*, 1 Dec. 2019, www.ft.com/content/c3555a3c-0d3e-11ea-b2d6-9bf4d1957a67.

102 Dudley, Lauren. “China’s Ubiquitous Facial Recognition Tech Sparks Privacy Backlash.” *The Diplomat*, 7 March 2020, thediplomat.com/2020/03/chinas-ubiquitous-facial-recognition-tech-sparks-privacy-backlash/.

103 “China Firm Develops System to Recognize Faces behind Coronavirus Masks.” CNBC, 9 March 2020, www.cnbc.com/2020/03/09/china-firm-develops-system-to-recognize-faces-behind-coronavirus-masks.html.

104 Nebehay, Stephanie. “1.5 Million Muslims Could Be Detained in China’s Xinjiang: Academic.” Reuters, Thomson Reuters, 13 March 2019, www.reuters.com/article/us-china-xinjiang-rights-idUSKCN1QU2MQ.

105 Offord, Catherine. “China Is Using DNA From Uighurs to Predict Physical Features.” *The Scientist*, 3 Dec. 2019, <https://www.the-scientist.com/news-opinion/china-is-using-dna-from-uighurs-to-predict-physical-features-66810>.

of Defense recently implored America to “deliberately and carefully embed our values into the technology that is already shaping our world” that is achieved by American, not Chinese, domination of the artificial intelligence market.¹⁰⁶

E.7. ██████████ contract granting right of first refusal on nuclear research programs to Qatar.

Emails from ██████████ demonstrated how contracts with foreign entities can inhibit an institution’s autonomy and decision-making abilities. A professor and administrator from ██████████ exchanged emails concerning ██████████ ability to enter nuclear research contracts with foreign governments. ██████████ – a research hub focusing on applied research in defense, energy, health care, infrastructure, and manufacturing – was considering providing nuclear training to Saudi Arabia and the United Arab Emirates. Referencing ██████████ contract with the Qatar Foundation, a nonprofit organization frequently partnered with the Qatari government, the ██████████ administrator communicated that the Qatar Foundation must be consulted before ██████████ and ██████████ ██████████ could enter into additional, external research agreements within the Arabian Gulf. This agreement exposes how foreign entities can tie the hands of an American research institutions – at home and abroad.

F. Vulnerability of R&D Technologies.

The Department’s investigations highlight the fact that foreign adversaries are likely targeting specific institutions for their R&D and technologies. This information highlights the critical national and economic security risks created by institutions’ failure to be fully transparent with respect to foreign gifts and contracts.

F.1. Licensing agent at ██████████.

American universities, commonly those with research prowess, often house licensing offices. These offices assess compliance with U.S. domestic and international laws and regulations, such as export and import controls. While the Department appreciates these compliance efforts, foreign governments may be strongly motivated to recruit former university licensing officers to gain insider knowledge of American licensing processes. A former senior employee at one of the investigated universities’ licensing offices now holds a senior position in a Chinese company where he works on international licensing matters. This is not illegal, but it does raise suspicions about how university staff could eventually provide insider knowledge to foreign actors like the Chinese government, in effect increasing foreign government access to American research. The Department urges the higher education community to be aware that American professionals possessing experience in regulating American institutions’ research and development projects may be recruited and hired by the Chinese government (or its intermediaries) to serve the Chinese government’s research interests.

106 Cohen, William, et al. “America Must Shape the World’s AI Norms - or Dictators Will.” *Defense One*, 27 Feb. 2020, www.defenseone.com/ideas/2020/02/america-must-shape-worlds-ai-norms-or-dictators-will/163392/.

F.2. [REDACTED] electron beam lithography research.

Foreign agents routinely target U.S. institutions to obtain cutting-edge research. For example, the Chinese government strives to acquire ultra-violet lithography capabilities, a technology nestled within the internationally competitive semi-conductor industry. The semi-conductor industry produces critical components of technology ranging from fighter jets to smartphones. National security risks are posed by American reliance on an insecure Chinese supply chain that could be affected by global politics. The United States strives to further cultivate and protect existing technology in addition to the next generation of capabilities, electron beam lithography, from malicious use by foreign governments.

[REDACTED] engages in electron beam lithography research, a subfield in the nexus of nanoscience and nanoengineering with critical implications for America's national security interests. The United States government has invested considerably in this technology through the United States National Nanotechnology Initiative, launched in 2000, by pooling resources across agencies such as the Department of Defense, the Department of Health and Human Services, the Department of Energy, and the Department of Justice, among others.¹⁰⁷ Findings have suggested that China is outpacing the United States in research that is prioritized for national defense, for example.¹⁰⁸⁻¹⁰⁹ [REDACTED] operates a nanoscience research lab while simultaneously maintaining agreements with China and other governments interested in the same research. This raises obvious concerns that the Chinese Communist Party may be strategically positioning Chinese undergraduate and graduate students in universities to carry out research of particular commercial and/or military interest to the Chinese government. Specifically, the Department cannot rule out the possibility [REDACTED] agreements with Chinese organizations may grant the Chinese Communist Party exceptional access to American research facilities.

F.3. [REDACTED] /China University of Petroleum.

[REDACTED] and the China University of Petroleum entered into a four-year agreement that facilitated academic exchanges and researched mutual interests related to the oil and gas industry. This agreement organized staff and student exchanges and planned cooperative activities related to oil and gas research, including collaboration on respectively funded research projects. Although this agreement may appear to be mutually advantageous, it arguably demonstrates that China is leveraging America's most capable resources to develop a geopolitically significant industry. As an example of China's geopolitical projects, the Belt and Road initiative is expected to be a means for China to access greater natural resources, including oil and China's longstanding battle over the disputed Senkaku Islands. It is also seen to be fueled by Chinese desire for

107 "The Nanotechnology Race between China and USA." *Materials Today*, 18 Dec. 2019, www.materialstoday.com/nanomaterials/comment/the-nanotechnology-race-between-china-and-usa/.

108 Dong, Haiyan, et al. "The Nanotechnology Race between China and the United States." *Nano Today*, Elsevier, 2 March 2016, www.sciencedirect.com/science/article/abs/pii/S1748013216000165.

109 Ibid.

access to oil and mineral beds.¹¹⁰⁻¹¹¹ Academic research regarding oil and gas extraction should not be considered separate from the Chinese government's geopolitical ambitions; however, China's largest oil companies are state-owned and dominate China's oil market, so this could cross paths with Chinese government endeavors.¹¹²

F.4. Spring Breeze Foundation/CP Group.

An agreement between the Spring Breeze Foundation and Georgetown University produced a \$10 million dollar Center for US-China Dialogue on Global Issues. The Spring Breeze Foundation is financed by CP Group, which is "a multinational conglomerate based in Thailand that is one of world's largest agribusiness and food companies and is also active in the telecommunications, retail, finance and pharmaceuticals sectors," according to Georgetown University.¹¹³ CP Group has ties to the Chinese government through multibillion dollar agreements.¹¹⁴ Furthermore, CP Group's gift involves cooperation with Tsinghua University, a top-ranked Chinese university with ties to the Chinese military. CP Group fellows discuss areas of critical importance to US-China relations, according to the agreement.

G. Risks posed by Overseas Operations.

Institutions' overseas operations present insider threat risks and a simple means to circumvent State Department and Department of Homeland Security visa controls.

G.1. In 2018, higher education ranked 17th out of 17 industries evaluated by SecurityScorecard on cybersecurity.

The 2018 Education Cybersecurity Report ranked the higher education sector as "the lowest performer in terms of cybersecurity compared to all other major industries."¹¹⁵ To exemplify the consequences of the conduct earning this statistic, in 2018, the Department of Justice obtained felony convictions of a handful of Iranian hackers who had targeted 144 U.S. universities.¹¹⁶ Institutions

110 "How Will the Belt and Road Initiative Advance China's Interests?" *ChinaPower Project*, 18 Oct. 2019, chinapower.csis.org/china-belt-and-road-initiative/.

111 Bosack, Michael Macarthur. "China's Senkaku Islands Ambition." *The Japan Times*, www.japantimes.co.jp/opinion/2019/06/12/commentary/japan-commentary/chinas-senkaku-islands-ambition/#.XjSQVmhKg2w.

112 Rick, August. "China's Private Oil Companies Struggle Against SOEs With New Tax Policy From Beijing." *Forbes*, Forbes Magazine, 12 June 2018, www.forbes.com/sites/augustrick/2018/06/12/chinas-private-oil-companies-struggle-against-soes-with-new-tax-policy-from-beijing/#226eab9c2a43.

113 "\$10M Gift Will Create U.S.-China Initiative on Global Issues at Georgetown." *Georgetown University*, 14 Jan. 2016, www.georgetown.edu/news/10m-gift-will-create-u-s-china-initiative-on-global-issues-at-georgetown/.

114 "Thailand's CP Group Signs US\$7.4b Rail Deal." *The Business Times*, 25 Oct. 2019, www.businesstimes.com.sg/government-economy/thailands-cp-group-signs-us74b-rail-deal. 115 "2018 Education Cybersecurity Report." SecurityScorecard, 2018, securityscorecard.com/resources/2018-education-report.

115 "2018 Education Cybersecurity Report." SecurityScorecard, 2018, securityscorecard.com/resources/2018-education-report.

116 Newman, Lily Hay. "The Worst Cybersecurity Breaches of 2018 So Far." *Wired*, Conde Nast, 11 July 2018, www.wired.com/story/2018-worst-hacks-so-far/.

heavily invested overseas — such as [REDACTED] — heightens the risk that domestically and internationally integrated university IT networks could be compromised. The Department’s Section 117 investigations further highlighted that institutions operate campuses abroad but associated foreign gifts and contracts are not always reported properly in compliance with Section 117.

G.2. Doha, Qatar, Campuses for [REDACTED]

Overseas facilities jointly operated by [REDACTED] and various foreign governments (or other foreign interests) could harbor research laboratories and other educational resources that are almost entirely unregulated by American law, despite associated national security risks. Each of these institutions operates a foreign degree-granting campus in Qatar, a known ally of Iran.

The Department has been informed that institutions’ funds are often intermingled with foreign funding of these campuses — in this case, Qatari funding.¹¹⁷ Complete and transparent compliance with Section 117 reporting obligations is exceptionally urgent given the institutions’ undefined accounting processes to fund campuses in a politically sensitive region.

Two of these campuses partnered with the Qatar Foundation, which has been known to silence viewpoints Qatar opposes. In February 2020, the Qatar Foundation, Northwestern University Qatar’s partner organization, prevented a Lebanese band with an openly gay lead singer from speaking on Northwestern’s Qatar campus. The Qatar Foundation commented, “We also place the very highest value on academic freedom and the open exchange of knowledge, ideas and points of view in the context of Qatari laws as well as the country’s cultural and social customs. This particular event was canceled due to the fact that it patently did not correlate with this context.”¹¹⁸ The event had to be relocated to Northwestern’s U.S. campus, according to the article, which illustrates the power of foreign agents to censor or silence speech and quell academic freedom.

[REDACTED] operates [REDACTED], a degree-granting branch campus that is jointly advised by the Qatar Foundation, and it also executes a research program. Other contracts include apartment leases in Doha, Qatar, to support [REDACTED] campus, which houses American and international students. [REDACTED] also established a degree-granting branch campus in Qatar called [REDACTED]. This campus was funded by the Qatar Foundation, an influential nonprofit organization that is supported in

117 Hartle, Terry. [EXTERNAL] *Follow up Meeting on Sec 117 Information Systems*, to Shelley L. Thompson, OMB, 20 Dec. 2019 (“When Section 117 was enacted in 1986, few campuses had widespread international activities. Today, as a result of globalization, internationalization is the rule rather than the exception. Indeed, some institutions—Georgetown, Yale, and NYU, for example—currently have fully functioning campuses that are located in foreign countries where American and foreign funds are almost completely intermingled.”) (Emphasis added).

118 Cornwell, Alexander. “Qatar Foundation Rejects U.S. University’s Reason for Scrapping Event after Anti-Gay Backlash.” *Reuters*, Thomson Reuters, 5 Feb. 2020, www.reuters.com/article/us-qatar-society/qatar-foundation-rejects-u-s-universitys-reason-for-scrapping-event-after-anti-gay-backlash-idUSKBN1ZZ11A.

part by the Qatari government. The campus includes a [REDACTED] [REDACTED] to study the Middle Eastern region and teach Arabic, funded indirectly by the Qatari government. [REDACTED] maintained several other agreements with Qatar, including a scholarship fund created directly by the Qatari government and establishment of the Qatar National Research Fund to support American-Qatari research.

Furthermore, the [REDACTED] is sponsored by the Qatar National Research Fund and, in 2015, cost over \$40 million. Part of the funding agreement notes how the Qatar National Research Fund particularly endorses research “aligned with the Qatar National Research Strategy” and “Qatar National Vision 2030,” which both aim to advance Qatari interests.¹¹⁹ Such examples illuminate how foreign government agendas could infuse American educational programming both at home and abroad.

The Department understands the value of international partnerships or placing campuses overseas, but attention should be paid to especially robust information technology systems to prevent cybersecurity and other threats. The Department is unaware of additional security controls implemented to protect U.S. interests on these foreign campuses. Specifically, students and other staff have access to universities’ systems, which may have few countervailing controls to ensure access to domestic research is secure.

G.3. [REDACTED] – exchange agreements with Chinese universities.

[REDACTED] entered into a host of exchange agreements with Chinese universities. Notably, one agreement with the Jiangxi Administration College provides lectures and seminars for dozens of Chinese government officials sent to the United States by the Chinese government. These select Chinese government officials were carefully chosen to meet with American government officials from the local, state, and federal levels. Through this agreement, [REDACTED] was facilitating intergovernmental exchange with a politically sensitive foreign government.

Any agreement that facilitates cooperation with Chinese citizens will be affected by Chinese law. Chinese citizens, through various laws, are obligated to serve their government, even – and perhaps especially – when they are abroad. For example, Article 7 of the PRC’s 2017 National Intelligence Law provides that “All organizations and citizens shall support, assist, and cooperate with national intelligence efforts in accordance with the law, and shall protect national work secrets they are aware of.”¹²⁰ Additionally, Article 77 of the PRC’s 2015 National Security Law provides that “Citizens and organizations shall provide the following obligations for safeguarding national security: (5) Provide national security authorities, public security authorities, and military authorities with needed support and assistance.”¹²¹ These laws cast wide nets to police individual Chinese citizens and Chinese organizations’

119 “About Qatar Foundation.” Qatar Foundation, www.qf.org.qa/about.

120 “China Initiative Conference,” U.S. Department of Justice and Center for Strategic and International Studies, 6 Feb. 2020, Washington, D.C., <https://www.youtube.com/watch?v=M1dxt82HFE>.

121 Ibid.

allegiance to the Chinese government and its interests. Consequently, it is especially relevant that universities are transparent about their agreements with China.

IV. DEPARTMENT OF EDUCATION PLANNED ACTIVITIES

- 1. Use information collection that requires broader reporting of foreign gifts and contracts with certifications as part of biannual submissions.** An improved information collection mechanism was effective for the July 31, 2020, reporting deadline. In April 2020, the “Foreign Gifts and Contracts Disclosure” information collection request (ICR) was approved, needed to ensure that institutions provide sufficient information to meet their statutory reporting requirements. The ICR package clarifies that an institution must report the benefit of a gift from, or contract with, a foreign source in the covered amount, considered alone or in the aggregate, even if it is received through an intermediary. The ICR authorizes information collection for public disclosure, including the total amount of gifts or contracts attributable to a particular foreign source and details about restricted and conditional gifts and contracts. The ICR also authorizes the collection of foreign donors’ names and addresses, which is necessary for the Department to determine compliance with Section 117. This information collection system will improve the quality of information reported to the Secretary, enabling more robust enforcement of Section 117.
- 2. Work with the U.S. Department of Justice regarding potential enforcement against specific institutions.** The Department of Justice researches foreign interference and mitigates its negative consequences in several capacities. To provide a broad example, the Department of Justice launched its China Initiative led by John Demers, Assistant Attorney General of the National Security Division, to tackle the myriad threats specifically pertaining to this rising foreign power. This initiative identifies “priority Chinese trade theft cases ... [review] investments and licenses in U.S. infrastructure and telecommunications, and ... work to counter covert efforts to influence our leaders and the general public.”¹²² A February 2020 conference hosted by the Center for Strategic and International Studies showcased the Department of Justice China Initiative and cooperation among various organizations ranging from the Federal Bureau of Investigation to higher education associations to counter malign foreign influence.¹²³ Relatedly, the Department of Education believes that public-private sector cooperation coupled with interagency cooperation will fortify oversight efforts.
- 3. Identify accounting and audit best practices to capture all foreign “cash in” and all foreign “cash out” in integrated and auditable account(s).** To illustrate, if an institution were to purchase computers from a foreign company, this contract would count as a “cash out” agreement, while a foreign computer company donating to an institution would count as a “cash in” agreement.

122 “Attorney General Jeff Sessions Announces New Initiative to Combat Chinese Economic Espionage.” *The United States Department of Justice*, 7 Nov. 2018, www.justice.gov/opa/speech/attorney-general-jeff-sessions-announces-new-initiative-combat-chinese-economic-espionage.

123 “China Initiative Conference,” U.S. Department of Justice and Center for Strategic and International Studies, 6 Feb. 2020, Washington, D.C., <https://www.youtube.com/watch?v=M1dtxt82HFE>.

Current assessments of the twelve investigated universities suggest that “cash out” agreements are not fully recorded by university accounting and auditing procedures. There are no current requirements for independent, audit-like evaluations, so institutions currently self-report their foreign gifts and contracts. Based on the Department’s investigations so far, the Department has not observed institutions’ implementing internal policies to produce audited reviews of foreign gifts and contracts to capture all potentially relevant agreements.

- 4. Encourage compliance opinions from institutions’ independent auditors as part of institutions’ annual audits.** This would be in addition to the twice-yearly reporting under Section 117. Third-party auditing may appear cumbersome to institutions of higher education, particularly ones with fewer resources, but third-party auditing would increase compliance. Increasing compliance would decrease any additional reporting burdens imposed by Department investigations into noncompliant universities. Overall, the Department’s primary goal is to increase compliance, but this does not imply a responsibility to instruct universities on their reporting mechanisms. Yet, universities may find that, all things considered, third-party reporting mechanisms can ease compliance burdens. Currently, the Department cannot confirm that the twelve universities under investigation are fully using third-party reporting mechanisms.
- 5. Provide updates to Congress as it reviews HEA, Section 117, to support the Department’s preliminary recommendations.** This report and the Department’s letters to the Permanent Subcommittee on Investigations serve as potential templates for future Congressional updates.¹²⁴

¹²⁴ Rubinstein, Reed. U.S. Department of Education Office of the General Counsel, November 2019, <https://www2.ed.gov/policy/highered/leg/psi-nov27-2019.pdf>.

V. CONCLUSIONS

In sum, the Department has found that:

- Transparency promotes free inquiry and academic freedom, preserves academic integrity, and protects national security.
- Compliant Section 117 reporting requires a significant culture change in the higher education industry. Our investigations have identified facts suggesting institutions vigorously pursue foreign money, on the one hand, but provide generally ineffective or nonexistent oversight of foreign source activities, whether on U.S. campuses or on branded foreign campuses, on the other. This raises disturbing national security questions, among other issues.

It is not the Department's statutory mission to police institutions' entanglements with foreign sources; rather, it is our mission to enforce disclosure and alert other federal agencies as appropriate. Effective Section 117 enforcement is one part of a collaboration between the Department and other federal agencies. The facts we have discovered drive home the need for an integrated Federal approach to the national problems posed by the theft of intellectual property, espionage, propaganda, and foreign influence operations on U.S. campuses. U.S. institutions are technological treasure troves where leading and internationally competitive fields, such as nanoscience, are booming. For too long, these institutions have provided an unprecedented level of access to foreign governments and their instrumentalities in an environment lacking transparency and oversight by the industry, the Department, and our partner agencies.