



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

Peter McPherson  
Association of Public and Land-grant Universities  
1307 New York Avenue NW, Suite 400  
Washington, DC 20005

September 6, 2019

Dear Pete:

Thank you for your letter to Secretary DeVos dated August 28, 2019. I am pleased to respond on her behalf.

We are pleased to hear your member institutions take seriously their legal duty to transparently and fully report all foreign monies received or funneled to them by way of gifts, contracts, and/or restricted and conditional gifts or contracts from foreign sources. However, the Department respectfully disagrees with the suggestion your members' reporting obligations are unclear or that they require more from the Department to do what Congress has so plainly required.

First, the Department directs your members' attention to the text of 20 U.S.C. § 1011f, Deputy Secretary Zais' letter of July 3, 2019, the Federal Register publications at 84 Fed. Reg. 31052 and 84 Fed. Reg. 34878, and the other Departmental letters published at <https://www2.ed.gov/policy/highered/leg/foreign-gifts.html>.

Second, the Congressional intent and the reporting obligation are plainly evident in the statutory text. Section 117 was last amended in 1998. Yet many of the concerns about ambiguity and uncertainty and "complicated" reporting requirements seemed to have surfaced well *after* GAO and Congressional investigators uncovered massive underreporting by colleges and universities of monies knowingly and intentionally obtained from a propaganda arm of the Chinese government. For institutions serious about transparency, the law is, and always has been, very clear – *all* foreign monies flowing or funneled to them by way of gifts, contracts, and conditional or restricted gifts with or from foreign sources, must be reported.

Third, you have asked the Department to "work with the higher education community to...balance the interests of transparency and the complicated nature of reporting." There is no statutory basis for any such "balance" and, given that more than two decades have passed since Congress last amended Section 117 your members have had ample time to deploy the very basic accounting tools needed to track and report foreign money. In any event, as noted in Deputy Secretary Zais' letter of July 3, 2019, the Department, *inter alia*, intends to modernize the Section 117 information collection portal to provide for a more detailed and transparent information collection under the Paperwork Reduction Act (the "Act"). Consistent with the Act and 5 CFR part 1320, the Department will carefully review and evaluate all public comments, including any comments APLU or its individual members might care to make. To comment, please see <https://www.regulations.gov/docket?D=ED-2019-ICCD-0114>.

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[www.ed.gov](http://www.ed.gov)

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Peter McPherson  
Association of Public and Land-grant Universities  
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We appreciate your interest in this matter and look forward to your cooperation and assistance in facilitating the full and transparent disclosure of all foreign monies flowing or funneled to American colleges and universities as the law requires.

Sincerely,



Reed D. Rubinstein  
Principal Deputy General Counsel  
Delegated the duties and authority of the  
General Counsel