



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

Justin Draeger  
National Association of Student Financial Aid Administrators  
1801 Pennsylvania Ave. NW, Suite 850  
Washington, DC 20005

September 6, 2019

Dear Mr. Draeger:

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Thank you for your letter to me, dated September 4, 2019, and to Deputy Secretary Mitchell Zais, dated August 1, 2019. I am pleased to respond to both letters.

First, with respect to your numbered questions, the Department directs your attention to the text of 20 U.S.C. § 1011f, Deputy Secretary Zais' letter of July 3, 2019, and 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 Department respectfully disagrees with your assertion that there is far too much ambiguity regarding Section 117 for the statute to be implemented accurately and consistently. Instead, the Congressional intent and the reporting obligation are plainly evident in the statutory text. Also, Section 117 was last amended in 1998. Many of the concerns about ambiguity and uncertainty, and the concomitant requests for rulemaking, 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, 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 undertake “a full rulemaking process.” As noted in Deputy Secretary Zais’s letter of July 3, 2019, the Department, *inter alia*, intends to modernize the Section 117 information collection portal. Modernization will include publication of a comprehensive information collection with public notice and comment 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 NASFAA 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.*

Justin Draeger  
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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