



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF THE GENERAL COUNSEL

August 10, 2020

Marc Tessier-Lavigne, President  
Office of the President  
Stanford University  
450 Jane Stanford Way, Building 10  
Stanford, CA 94305

*Via Electronic Mail*

Re: Notice of 20 U.S.C. § 1011f Investigation and Record Request/Stanford University

Dear President Tessier-Lavigne:

Section 117 of the Higher Education Act of 1965 (20 U.S.C. § 1011f) requires Stanford University (Stanford) to disclose and report statutorily defined gifts, contracts, and/or restricted and conditional gifts or contracts from or with a statutorily defined foreign source, to the U.S. Department of Education (Department). Reports are publicly available at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

On July 17, 2020, Stanford Visiting Researcher Song Chen (Chen) was charged by federal criminal complaint with fraud and misuse of visas, permits, and other documents, in violation of 18 U.S.C. § 1546(a). The federal criminal complaint and supporting affidavit alleged that in her visa application, Chen had falsely represented that her employer was Beijing Xi Diaoyutai Hospital even though, in fact, it was the People's Liberation Army (PLA), the armed forces of the People's Republic of China (PRC) and the military wing of the Chinese Communist Party (CCP). Stanford appears to have given Chen ongoing access to significant neurological research activities and developments. *See* <https://www.justice.gov/usao-ndca/press-release/file/1295926/download>.

As you must know, the PRC has been clear about its intent to acquire high-level scientific talent and highly specialized research to further its scientific and military objectives through its "Chinese Talent Programs" (CTP) and other surreptitious initiatives. Multiple federal agencies, including the National Institutes of Health (NIH) Federal Bureau of Investigation (FBI), and Department of Energy (DOE), have publicly warned about the potential damage to American national security interests presented by the PRC and its CTPs.<sup>1</sup> On July 7, 2020, FBI Director Christopher

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<sup>1</sup> NIH has clearly and repeatedly warned of the PRC's insidious threat to American research

Wray described the ongoing, multi-layered PRC threat to the United States. See <https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states>.

Stanford has extensive business interests in and very deep entanglements with the PRC. See generally <https://www.nytimes.com/2019/05/02/us/yusi-molly-zhao-china-stanford.html>; <https://www.bloomberg.com/opinion/articles/2018-12-10/scientist-s-death-adds-to-china-tech-setbacks-after-huawei>; <https://stanfordmag.org/contents/our-strong-china-connection-gains-a-firmer-foothold>. For example, Stanford established the “Stanford Center at Peking University” in 2012 purportedly for “collaboration” with Chinese researchers. See <https://scpku.fsi.stanford.edu/>; <https://news.stanford.edu/news/2011/march/scpku-china-peking-033111.html>. As Stanford must know, Peking University is directly controlled by Chinese Communist Party officials and recently even amended its charter to reinforce its long-standing role as a tool of the Chinese communists. See, e.g., <https://www.npr.org/2020/01/20/796377204/chinese-universities-are-enshrining-communist-party-control-in-their-charters>.

Although Chinese students have actively protested CCP control of and the increasingly strict CCP restrictions on free speech and free expression at universities and elsewhere, it appears that Stanford’s last notable public comment on these concerns was published in January 2013. At that time, discussing Stanford’s “Confucius Institute,” (CI) Stanford did at least note that “[t]here has been some controversy over the grand mission here.” See <https://international.stanford.edu/info/news/confucius-institute-stanford-university>. In fact, there is a very grave concern regarding the “grand mission” of each Confucius Institute, particularly at America’s leading scientific universities. CIs are well known to actively facilitate one of the world’s most repressive, authoritarian regime’s insidious efforts to bolster its influence and image at classically liberal universities. See <https://www.thenation.com/article/archive/china-u/>. The alarm regarding the influence of CIs at America’s universities has only grown in the years since Stanford’s joint efforts with its CCP-sponsored CI commenced. Bipartisan warnings by policy makers have repeatedly been raised regarding this growing threat. See <https://www.nbcnews.com/politics/national-security/senate-investigators-warn-chinese-state-run-centers-more-100-u-n977351>.

Perhaps symbolic of the successful influence of Stanford’s CI, the “News” section of the Stanford Center at Peking’s official website features a full-page banner image of Stanford students and faculty posing in front of a PRC monument commemorating the “*front of the old railroad tracks*

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institutions. See <https://nihrecord.nih.gov/2019/10/04/nih-investigates-foreign-influence-us-grantee-institutions>; <https://www.sciencemag.org/news/2018/08/nih-investigating-whether-us-scientists-are-sharing-ideas-foreign-governments>. NIH grantees were informed of the ongoing threat to biomedical research from foreign sources and the obligation of universities to timely report funding by foreign entities. The FBI has warned of the CCP’s (and CTP’s) threat to American security interests. See <https://www.fbi.gov/news/testimony/securing-the-us-research-enterprise-from-chinas-talent-recruitment-plans-111919>; <https://www.hsgac.senate.gov/imo/media/doc/Brown%20Testimony.pdf>. The DOE has warned of CTP-based efforts to gain access to technology critical to the security of the United States. See <https://www.directives.doe.gov/directives-documents/400-series/0486.1-border/@images/file>; <https://phys.org/news/2019-06-energy-dept-blocks-china-thousand.html>.

*in Dandong, Liaoning province, that helped transport Chinese troops into North Korea during the Korean War [emphasis added].”<sup>2</sup> As you know, Communist Chinese troops attacked United Nations forces defending non-Communist South Korea from unprovoked North Korean aggression. North Korea was then, and remains today, a brutal communist totalitarian dictatorship. According to the U.S. Department of Veterans Affairs, 54,246 U.S. servicemembers gave their lives to defend South Korea from the North Koreans and the Communist Chinese between 1950-53,<sup>3</sup> making this a particularly bizarre (and extremely indecorous) image for Stanford to highlight.*

In fact, cultivating relations with the PRC appears to have been quite lucrative for Stanford. Departmental records reveal that Stanford has reported more than \$64 million in unidentified, anonymous gifts and contracts from and with the PRC since May 2010 (donor identities of qualifying foreign source gifts and contracts are required in Section 117 reporting). The Department notes that Stanford appears to have reported names of foreign sources through the July 31, 2010, reporting period but then stopped reporting the identities of foreign sources with its January 31, 2011, report – which was only **two months** before it announced creation of its Center at Peking University. We note further substantial anonymous gifts from China, including one for \$10 million on August 8, 2018.

Given Stanford’s extensive Chinese business activities and the CCP’s systemic efforts to influence university curricula and to access research and intellectual property from American universities, the Department is also concerned that Stanford may have underreported donations from and contracts with Chinese nationals, Chinese corporations, and the Chinese government, among other qualifying gifts, contracts, and/or restricted and conditional gifts or contracts from or with a foreign source(s).

Stanford’s duty to disclose foreign money is a critical ongoing statutory obligation. Any failure to diligently and transparently report foreign gifts and contracts to the Department could jeopardize national security by facilitating unintentional or unchecked transfer(s) of critical research to hostile foreign actors, undisclosed foreign propaganda operations or influence on teaching and research, and the erosion of public trust in university research enterprise(s). By intentionally withholding donor information, Stanford effectively conceals the identity of its foreign sponsors and prevents the Department from verifying the accuracy of its foreign money reports. Finally, it is worth noting that Stanford has been very heavily supported by the American taxpayer. For example, between FY 2016-2020, it was awarded more than \$2.2 billion from the National Institutes of Health,<sup>4</sup> more than \$290

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<sup>2</sup> See <https://scpku.fsi.stanford.edu/news>.

<sup>3</sup> See [https://www.va.gov/opa/publications/factsheets/fs\\_americas\\_wars.pdf](https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf).

<sup>4</sup> See

<https://report.nih.gov/award/index.cfm?ot=&fy=2016&state=&ic=&fm=&orgid=8046501&distr=&fa=&om=n&pid=&view=state>,

<https://report.nih.gov/award/index.cfm?ot=&fy=2017&state=&ic=&fm=&orgid=8046501&distr=&fa=&om=n&pid=&view=state>,

<https://report.nih.gov/award/index.cfm?ot=&fy=2018&state=&ic=&fm=&orgid=8046501&distr=&fa=&om=n&pid=&view=state>,

<https://report.nih.gov/award/index.cfm?ot=&fy=2019&state=&ic=&fm=&orgid=8046501&distr=&fa=&om=n&pid=&view=state>,

million from the National Science Foundation (FY 2016-2019),<sup>5</sup> and more than \$263 million in Title IV funds from the Department of Education (FY 2016-2020). These massive subsidies support the compelling interest of the Department and students, parents, and American taxpayers in the transparent and lawful disclosure of all qualifying foreign money sources and their identities.

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To verify Stanford's compliance with the law, please produce the following within thirty (30) calendar days:

1. A list of all previously undisclosed foreign gifts, contracts, and restricted or conditional gifts or contracts from or with foreign sources and Stanford. The time frame for this request is January 1, 2010, through the present.
2. The identities of all of Stanford's foreign source gifts and contracts. For each such foreign source provide: (a) full and complete name(s), address(es), and contact information (e.g. email address and phone number); (b) occupation and/or organizational description (nature of business, place of incorporation and point of contact); (c) true copies of every gift or donation agreement, contract, and restricted or conditional gift or donation agreement or contract including any modifications thereto, and full descriptions of any verbal or non-written agreements of a material nature regarding the purpose and/or application thereof; and (d) all records (including supporting email communications) relating to agents and/or persons or entities acting on behalf of the foreign source. The time frame for this request is January 1, 2010, through the present.
3. All records (e.g. emails, contracts, written agreements, written promises and proposed modifications thereto) of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from, between, or with Stanford and (a) the government of the PRC and/or its agencies, departments, agents, employees and instrumentalities (whether domiciled in China, the United States, or elsewhere), (b) the Chinese Communist Party, the Central Committee of the Communist Party of China and/or their agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere), (c) the People's Liberation Army and/or its agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere), and (d) any China-based university or educational entity, and/or their agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere). The time frame for this request is January 1, 2010, through the present.

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<https://report.nih.gov/award/index.cfm?ot=&fy=2020&state=&ic=&fm=&orgid=8046501&distr=&rf=&om=n&pid=&view=state>.

<sup>5</sup> See <https://dellweb.bfa.nsf.gov/AwdLst2/default.asp>,

<https://dellweb.bfa.nsf.gov/AwdLst2/default.asp>, <https://dellweb.bfa.nsf.gov/AwdLst2/default.asp>,  
<https://dellweb.bfa.nsf.gov/AwdLst2/default.asp>.

4. All records (e.g. emails, contracts, written agreements, written promises and proposed modifications thereto) relating to Song Chen, including her application (and supporting materials) to become a Visiting Researcher and/or Visiting Scholar (and any other position which Chen held or for which she applied) from January 1, 2016, through the present.
5. A list of any electronic mail username(s), other unique identifiers (if any), and domain name(s) provided by or on behalf of Stanford to Chen from January 1, 2016, through the present.
6. A list of any electronic mail username(s), other unique identifiers (if any), and domain names known by Stanford or its personnel to have been utilized by Chen but not issued by or under your control from January 1, 2016, through the present.
7. True copies of all communications, including deleted communications, to, from, or referencing Stanford personnel associated with the username(s) and other unique identifiers (if any) described in items 3, 4, and 5 from January 1, 2016, through the present.
8. A list of all Stanford personnel with responsibilities for, in support of, or otherwise relating to the facilitation of Chen's research and her position, including applicable titles and duties from January 1, 2016, through the present.
9. A list identifying all funding sources for Chen's research at Stanford and her position(s) at Stanford, including funding sources that are agencies of the United States Government (e.g., NIH, NSF, DoD, etc.) and affiliates of the United States Government (e.g., other Institutions or contractors managing funds by grant or otherwise for the benefit of the United States Government). The time frame for this request is January 1, 2016, through the present.
10. A list of all visiting or temporary researchers, scholars, and faculty at Stanford who are from or affiliated with (a) the government of the PRC and/or its agencies, departments, agents, employees and instrumentalities (whether domiciled in China, the United States, or elsewhere), (b) the Chinese Communist Party, the Central Committee of the Communist Party of China and/or their agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere), (c) the People's Liberation Army and/or its agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere), and (d) any China-based university or educational entity, and/or their agents, employees, and instrumentalities (whether domiciled in China, the United States, or elsewhere). The time frame for this request is January 1, 2010, to the present.
11. For each person listed in response to item 10 above provide, identify: (a) the last known address and contact information (e.g. phone and email); (b) the area of research, scholarship, or teaching in which they were involved (by Department and particular subject matter); (c) the source(s) of compensation and/or funding for the position; (d) the title or activity description while at or affiliated with Stanford; and (e) the person's affiliation, if any, with (i) the government of the PRC and/or its agencies, departments, agents, employees and instrumentalities, (ii) the Chinese Communist Party, the Central Committee of the Communist Party of China and/or their agents, employees, and instrumentalities, (iii) the People's



Liberation Army and/or its agents, employees, and instrumentalities, and (iv) any China-based university or educational entity, and/or their agents, employees, and instrumentalities. The time frame for this request is January 1, 2010, through the present.

12. A written explanation for Stanford's decision on or before January 2011 to cease disclosing foreign sources' identities in its Section 117 reports to the Department.
13. A list of staff, by name and official position, responsible for Stanford's compliance with 20 U.S.C. § 1011f during the period January 1, 2010, through the present.

Your production should utilize the following procedures:

- Responsive records should be sequentially numerically indexed (a.k.a. Bates stamping) and reference should be made to the request to which the records are responsive (e.g., Item 1).
- Searches for records in electronic form should include searches of all relevant mobile devices, hard drives, network drives, offline electronic folders, thumb drives, removable drives, records stored in the cloud, and archive files, including, but not limited to, backup tapes. Do not modify the content, the create date, or the last date modified of any record and do not scrub any metadata (*with the sole exception of numerical indexing as described above*). Electronic records should be produced in native format. For e-mails, please place responses in one .pst file per employee. For .pdf files, please provide searchable file format and not image file format.
- All email searches should be conducted by the agency's information technology department, or its equivalent, and not by the individuals whose records are being searched. Please provide the name and contact information of the individual(s) who conducted the search, as well as an explanation of how the search was conducted.
- To the extent practicable, please produce all records in a searchable electronic format and not hardcopies. Should you have any questions about the method or format of production please contact the undersigned to coordinate.

As used in this Notice of Investigation and Record Request:

"Agencies" include any organizations or entities providing services or performing functions or tasks on behalf of another organization, entity, or individual.

"Agent" has its plain and ordinary meaning, indicating that a person, organization, or entity, is acting on behalf of another person, organization, or entity, whether that agency is disclosed or undisclosed.

"Contract" has the meaning given at 20 U.S.C. § 1011f(h)(1).

“Faculty” refers to all teaching positions at the university (including professors of all ranks, teachers, lecturers, and/or researchers whether in a classroom, laboratory, or other educational environment – whether physically or electronically present).

“Foreign source” has the meaning given at 20 U.S.C. § 1011f(h)(2).

“Gift” has the meaning given at 20 U.S.C. § 1011f(h)(3).

“Institution” has the meaning given at 20 U.S.C. § 1011f(h)(4) and for the purposes of this request includes Stanford, its employees, tenured faculty, non-tenured faculty and lecturers, researchers, fellows, graduate students, and all affiliated entities operating substantially under its control or for its benefit (*e.g.*, centers, schools, boards, foundations, research facilities, laboratories, branches, partnerships, or non-profit organizations).

“Record” means all recorded information, regardless of form or characteristics, made or received, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, Internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term “recorded information” also includes all traditional forms of records, regardless of physical form or characteristics.

“Restricted or conditional gift or contract” has the meaning given at 20 U.S.C. § 1011f(h)(5).

“Staff” refers to all members of the university involved in administration of the university and its obligations and commitments (including deans of all ranks, administration officials, other personnel, and support personnel).

If Stanford asserts attorney-client or attorney-work product privilege for a given record, then it must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess the claim’s validity. Please note that no other privileges apply here. Your record and data preservation obligations are outlined at Exhibit A.

The Department recognizes that the ongoing impact of the Chinese coronavirus pandemic on your Institution’s operations may be significant. Nonetheless, your timely response to this Record Request is essential.

Marc Tessier-Lavigne, President  
Stanford University  
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This investigation is being directed by the Department's Office of General Counsel with support from the Federal Student Aid Office. To arrange transmission of the requested information, or should you have any other questions, please contact:

Paul R. Moore  
Chief Investigative Counsel  
Office of the General Counsel  
U.S. Department of Education  
400 Maryland Ave., S.W., Room 6E304  
Washington, D.C. 20202  
Paul.Moore@ed.gov

Sincerely yours,

**Reed  
Rubinstein** Digitally signed by  
Reed Rubinstein  
Date: 2020.08.10  
11:56:10 -04'00'

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Reed D. Rubinstein  
Principal Deputy General Counsel delegated  
the Authorities and Duties of the General Counsel

**Enclosure** (Exhibit A)



## EXHIBIT A

### RECORD PRESERVATION REQUIREMENTS

This investigation requires preservation of all information from your institution's computer systems, removable electronic media, filing systems, and other locations relating to the matters that are the subject of the Notice of Investigation. You should immediately preserve all data and information about the data (i.e., backup activity logs and document retention policies) relating to records maintained in the ordinary course of business and that are covered by the Notice of Investigation. Also, you should preserve information available on the following platforms, whether in your possession or the possession of a third party, such as an employee or outside contractor: databases, networks, computer systems, including legacy systems (hardware and software), servers, archives, backup or disaster recovery systems, tapes, discs, drives, cartridges and other storage media, laptops, personal computers, internet data, personal digital assistants, handheld wireless devices, mobile telephones, paging devices, and audio systems (including voicemail). You should also preserve all hard copies of records regardless of location.

The laws and rules prohibiting destruction of evidence apply to electronically stored information in the same manner that they apply to other evidence. Accordingly, you must take every reasonable step to preserve relevant records. "Reasonable steps" with respect to these records include:

- Notifying in writing all potential custodians and IT personnel who may have relevant records of their preservation obligations under this investigation.
- Discontinuing all data and document destruction policies.
- Preserving all metadata.
- Preserving relevant records and/or hardware unless an exact replica of the file (a mirror image) is made.
- Preserving passwords, decryption procedures (and accompanying software), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software.
- Maintaining all other pertinent information and tools needed to access, review, and reconstruct necessary to access, view, and/or reconstruct all requested or potentially relevant electronic data.

You have an obligation to preserve all digital or analog electronic files in electronic format, regardless of whether hard copies of the information exist, with all metadata. This includes preserving:

- Active data (i.e., data immediately and easily accessible today).
- Archived/journaled data (i.e., data residing on backup tapes or other storage media).
- Deleted data (i.e., data that has been deleted from a computer hard drive but is recoverable through computer forensic techniques).
- Legacy data (i.e., data created on old or obsolete hardware or software).