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COMMITTEE ON EDUCATION AND THE WORKFORCE

U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

April 5, 2023

Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

As you know, the Office of General Counsel (“OGC”) of the prior administration undertook specific and concrete steps to determine whether institutions of higher education were complying with the reporting requirements of Section 117 of the *Higher Education Act*.¹ In a report titled “Institutional Compliance with Section 117 of the Higher Education Act of 1965,” OGC discovered nearly \$6.5 billion in previously unreported foreign money received by colleges and universities,² and found the following:

- (1) [T]he filings received . . . by the Department indicate the largest, wealthiest, and most sophisticated . . . institutions of higher education have received nearly all foreign funds, receiving billions . . . in assets using an assortment of related intermediaries, including functionally captive foundations, [and] foreign operating units [;]
- (2) [I]nstitutional decision-making is generally divorced from any sense of obligation to . . . taxpayers or concern for our American national interests, security, or values [;]
- (3) [H]igher 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 . . . [and that] [f]or 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 . . . ‘gifts’ and

¹ Section 117 of the Higher Education Act of 1965 (20 U.S.C. § 1011f) requires nearly all colleges and universities to publicly report, twice a year, foreign gifts and contracts the value of which is \$250,000 or greater, considered alone or in combination with other gifts and contracts, with a foreign source.

² OFFICE OF THE GENERAL COUNSEL, U.S. DEPARTMENT OF EDUCATION, INSTITUTIONAL COMPLIANCE WITH SECTION 117 OF THE HIGHER EDUCATION ACT OF 1965 (Oct. 2020) at 1.

‘contracts’ to project soft power, steal sensitive and proprietary research, and spread propaganda [;]

- (4) [OGC’s] investigations [have] confirmed . . . [the Permanent Subcommittee on Investigations of the U.S. Senate Committee on Homeland Security and Government Affairs’] finding that Section 117 reporting is systemically underinclusive and inaccurate [;] [and]
- (5) [E]vidence shows the [higher education] 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) . . . [and] [s]ince 2012, institutions reported anonymous donations from China, Saudi Arabia, Qatar, and Russia totaling more than \$1.14 billion[.]³

With this as background, and given the lack of detail in the administration’s recent budget proposals, including the FY 2024 proposal, I write to inquire about current Section 117 operations and enforcement activities of the Department and request you provide responses to the following:

1. Budgeted and expended amounts for all Section 117 activities in each of FY 2021 and FY 2022.
2. Budgeted and expended amounts for all Section 117 activities in FY 2023 through the date of this letter.
3. The number of Full Time Equivalents (“FTEs”) budgeted for Section 117 activities in FY 2023.
4. The proposed FY 2024 budget for Section 117 activities.
5. The number of FTEs to carry out Section 117 activities in the proposed FY 2024 budget.
6. The number of FTEs designated to carry out Section 117 enforcement and investigative activities in the proposed FY 2024 budget.
7. As of the date of this letter, the number of FTEs who are performing Section 117 enforcement activities.
8. As of the date of this letter, the number of FTEs who are investigating the compliance of institutions of higher education with Section 117.
9. The Department’s Section 117 website designates only four institutions with investigations or requests as closed under the category “Notices of Investigation

³ *Id.* at 2-3.

and Records Requests” (Georgetown University, Texas A & M University, University of Texas, and University of Alabama).⁴

Provide a detailed status report on each of the following institutions of higher education listed under “Notices of Investigation and Records Requests” that appear on the Department’s web site:

- a. Cornell University
- b. State University of New Jersey
- c. Massachusetts Institute of Technology
- d. University of Maryland
- e. Harvard University
- f. Yale University
- g. Case Western Reserve University
- h. Fordham University
- i. Stanford University
- j. Auburn University
- k. Florida State University
- l. Georgia State University
- m. University of Nevada, Las Vegas
- n. University of New Mexico
- o. University of Wisconsin-Milwaukee⁵

10. In an August 16, 2022 letter from Terry Hartle (Senior Vice President of the American Council on Education) to Lisa Brown (General Counsel of the Department), Richard Cordray (Chief Operating Officer of the Office of Federal Student Aid), and Melanie Muenzer (Chief of Staff in the Office of the Under Secretary), Mr. Hartle thanks Ms. Brown, Mr. Cordray, and Ms. Muenzer for providing an “update on the Department of Education’s (ED) efforts around Section 117 and answers to questions from our institutional members during our virtual meeting on June 23, [2022].”⁶ The letter further states, “The information and presentation by your [ED] teams [were] helpful, and . . . [w]e were pleased to learn that ED plans to close the outstanding Section 117 investigations that remain open; that ED will address the concerns and issues with the existing reporting portal; and that Section 117 management will be transferred back to Federal Student Aid (FSA).”⁷

- a. Provide the names of the schools with Section 117 investigations that have been closed (as noted in the letter) and the rationale for the closure.
- b. Provide a detailed description of the specific “concerns and issues with the existing reporting portal.”⁸

⁴ See <https://www2.ed.gov/policy/highered/leg/foreign-gifts.html>.

⁵ *Id.*

⁶ ACE letter of August 16, 2022 (Exhibit A).

⁷ *Id.*

⁸ *Id.*

- c. Provide the reason(s) for, and the legal authority under which, “Section 117 management . . . [has been or is being] transferred back to Federal Student Aid (FSA),”⁹ and if the transfer has occurred, when it occurred and the number of FTEs transferred.
 - d. In the August 16 letter, Mr. Hartle states. “[ACE] would like to follow up regarding the need for timely changes to the reporting portal.”¹⁰ Identify in detail the need for any “timely changes to the reporting portal,” as well as any changes made.
11. The status of the functionality of the current Section 117 reporting portal. If the reporting portal is not fully functional, please provide a detailed explanation of why it is not fully functional.
 12. A detailed explanation of the specific actions the Department has taken between January 21, 2021, and the date of this letter to enforce the Notice of Interpretation of November 13, 2020 (“The Department’s Enforcement Authority for Failure to Adequately Report Under Section 117 of the Higher Education Act of 1965, as Amended”).¹¹
 13. A list of all Section 117-related Program Participation Agreement (PPA) enforcement actions the Department has taken between January 21, 2021, and the date of this letter, including the withholding of Title IV student aid.
 14. Is the Office of Enforcement within Federal Student Aid the office that is charged with enforcing Section 117? If it is not such office, please name the office charged with enforcing Section 117.

Please provide responses to the questions and other requests (instructions enclosed) no later two weeks after the date of this letter.

Sincerely,



Virginia Foxx
 Chairwoman
 U.S. House Committee on Education
 and the Workforce



Joe Wilson
 Member of Congress

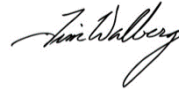
⁹ *Id.*

¹⁰ *Id.*

¹¹ 85 Fed. Reg. 72567 (Nov. 13, 2020).



Glenn "GT" Thompson
Member of Congress



Tim Walberg
Member of Congress



Glenn Grothman
Member of Congress



Elise Stefanik
Member of Congress



Rick Allen
Member of Congress



Jim Banks
Member of Congress



Lloyd Smucker
Member of Congress



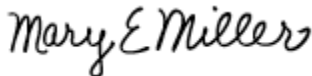
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Lisa C. McClain
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Michelle Steel
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Ron Estes
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