



March 11, 2020

Stephanie Valentine
PRA Coordinator
Director of the Information Collection Clearance Division
Department of Education
550 12th Street, SW, PCP, Room 9089
Washington, DC 20202-0023

Dear Ms. Valentine,

On behalf of the Association of American Universities (AAU), the voice of America's leading research universities, I write to you regarding the Department of Education's proposed Information Collection Request (ICR) on Foreign Gifts and Contracts Disclosures published in the Federal Register on February 10, [Docket No. ED-2019-ICCD-0114](#).

AAU member institutions unquestionably share security concerns about undue foreign government influence on higher education and are taking rigorous steps to safeguard the integrity of government-funded research and intellectual capital resulting from it. We also take seriously our responsibility to ensure transparency around the relationships U.S. colleges and universities have with foreign entities. These security concerns call for an expanded and enhanced working partnership between universities and the federal government. Unfortunately, the Department – unlike other federal agencies and Congress – has adopted a seemingly antagonistic rather than collaborative approach to addressing these concerns.

Throughout 2019, the higher education community made multiple¹ good faith efforts to seek guidance and clarification from the Department on Section 117, which requires institutions to biannually disclose institutional gifts and contracts received from foreign entities. Such guidance is urgently needed, given the lack of formal regulations implementing Section 117 and comprehensive guidance on Section 117 (even the Department's 1995 and 2004 "Dear Colleague" letters have now been removed from the Department's website). The Department failed to respond to those inquiries with answers to specific questions and did not offer to meet with or otherwise convene stakeholders to discuss Section 117 compliance.² The Department circumvented the open, public process of notice-and-comment rulemaking and published what is essentially a legislative rule via a Paperwork Reduction Act ICR published in September and then sought expedited "emergency" review of its ICR in December. Although we appreciate that the Department subsequently withdrew its expedited review request and made several changes to its original ICR, the fact remains that – with the exception of a forthcoming notice-and-comment rulemaking on the "true copies" question – the Department has chosen to use a process that does not require it to take stakeholder input into consideration.

¹ ["Associations Ask Department of Education to Clarify Foreign Gift Reporting Requirements,"](#) January 18, 2019
["Follow Up Letter to Department of Education Regarding Section 117 Interpretation,"](#) June 21, 2019
["AAU, Associations Respond to Department of Education Response Letter on Section 117 Guidance,"](#) July 12, 2019

² ["Education Department Responds to Section 117 Reporting Guidance Requests,"](#) July 3, 2019

As noted in the March 11 comments filed by the American Council on Education, which we have joined, we believe the common interests of the government and the higher education community are best served by robust guidance from the Department about the requirements of Section 117 compliance through a full-fledged regulatory notice-and-comment process. Indeed, Senator Rob Portman, chair of the Permanent Subcommittee on Investigations of the Senate Homeland Security and Government Affairs Committee, called for just such guidance for Section 117 during a February 2019 hearing, and the Department itself acknowledged the need for such guidance.³

For generations, in both war and peace, America's leading research universities have worked in partnership with the federal government to make our nation prosperous and the global leader in science and innovation. We respectfully ask the Department to work with our institutions as they strive to uncover and counter any existing manifestations of undue foreign government influence and, just as importantly, to systematically prevent future instances of undue foreign government influence. We urge the Department to work cooperatively and transparently to ensure that Section 117 and other mechanisms for disclosing foreign transactions are strengthened in a way that serves our shared national security goals without compromising the ability of universities to continue to serve our nation.

Sincerely,

A handwritten signature in black ink that reads "Mary Sue Coleman". The signature is written in a cursive, flowing style.

Mary Sue Coleman
President

Cc: Paul Ray, Office of Information and Regulatory Affairs
Kelvin Droegemeier, Office of Science and Technology Policy
Lisa Nichols, Office of Science and Technology Policy

³ Congressional Hearing, "[China's Impact on the U.S. Education System](#)," *Senate Homeland Security and Government Affairs Committee, Permanent Subcommittee on Investigations*, February 28, 2019