



August 1, 2019

The Honorable Mitchell M. Zais  
Deputy Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Deputy Secretary Zais,

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), I write to express our growing and deep concern over the lack of clarity surrounding the reporting requirements associated with Section 117 of the Higher Education Act, and request the Department to develop and release additional guidance on what is expected from institutions. The best way to do this is likely through an official rulemaking process.

Despite repeated attempts from the higher education community to request more guidance from the Department on the specific reporting requirements for Section 117, financial aid administrators--who are often the office responsible for filing these reports--are still lacking the information they need to effectively comply with this requirement.<sup>1</sup> Since its adoption into the Higher Education Act in 1986, the Department has only issued two Dear Colleague letters related to Section 117, one in 1995 and one in 2004. These DCLs, nearly 15 and 25 years old, respectively, do not address several acute questions institutions have about Sec. 117. For example, as the American Council of Education pointed out in their letter addressed to you in January of this year, schools are seeking clarity on the following four issues:<sup>2</sup>

1. Whether the \$250,000 reporting threshold is met only when an individual gift exceeds this amount or when the aggregate amount received from a country or specific foreign entity exceeds the threshold?
2. What should be considered under the Section 117 definition of an "institution"?

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<sup>1</sup> <https://www.acenet.edu/news-room/Documents/Letter-to-Dept-of-Education-Regarding-Section-117-of-HEA.pdf>; [https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Higher-Education-Regulation/Final July 2019 ACE Associations Response to ED on Section%20117.pdf](https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Higher-Education-Regulation/Final%20July%202019%20ACE%20Associations%20Response%20to%20ED%20on%20Section%20117.pdf)

<sup>2</sup> <https://www.acenet.edu/news-room/Documents/Letter-to-Dept-of-Education-Regarding-Section-117-of-HEA.pdf>

3. When is it sufficient to only list the country from which a gift(s) has been received versus a specific government-affiliated university, company, and/or other entity?
4. What mechanism should institutions use to submit corrections or amendments to previous reports?

Institutions are eager to comply with this requirement, as evidenced by multiple, frequent inquiries from NASFAA member institutions related to this matter, but it is unreasonable to expect schools to be in compliance with limited and extremely dated information from the Department. Even a cursory review of the way in which the higher education landscape has evolved from a global perspective over the last 20 years, including growth in international students and companies, and the ever-increasing need to be more engaged in global affairs, suggests that the reporting landscape is much more complex than the last time the Department provided guidance to institutions on this issue.

The vagueness and lack of guidance on this issue, combined with recently announced investigations have led institutions to believe that they are being put into an impossible situation, tantamount to a “gotcha” that needlessly erodes the partnership between ED and our aid offices.

The higher education community sincerely wants to work with the Department to help college and university aid offices better understand and comply with Section 117, and we urge you to conduct a full rulemaking process allowing for public comment so that stakeholders can inform the process, and ultimately, institutions can have clear, complete guidance on this important issue.

Sincerely,



Justin Draeger, President & CEO

Cc: Diane Auer Jones, Principal Deputy Under Secretary  
Jeff Appel, Director of Policy Liaison and Implementation, Office of Federal Student Aid