

Trump Administration Prioritizes Oversight of Foreign Transactions in Higher Education

While the Trump Administration generally has emphasized deregulation,ⁱ institutions of higher education should expect the U.S. Department of Education (“ED”) to be more aggressive in its oversight and enforcement of 20 U.S.C. § 1011f (“Section 117”). Section 117 is the provision of the Higher Education Act requiring institutions of higher education to disclose gifts and contracts with foreign sources valued at \$250,000 or greater, as well as any foreign ownership.ⁱⁱ The next Section 117 reporting deadline is **July 31, 2025**.

This memorandum summarizes initial developments in Section 117 policy and enforcement during President Trump’s second term.

- ***The White House confirmed its focus on Section 117 by issuing an Executive Order on April 23, 2025 directing the Secretary of Education to take steps to more robustly enforce foreign transaction and ownership reporting requirements.*** This includes reversing or rescinding any actions by the Biden Administration that permitted institutions of higher education to maintain improper secrecy regarding sources of foreign funding; requiring universities to disclose details about foreign funding; providing the public with greater access to information about foreign funding; and coordinating with the Attorney General to hold institutions accountable.ⁱⁱⁱ The Executive Order also directs the Secretary of Education and other executive agency heads to ensure the certification of compliance with Section 117 is considered “material” for the purposes of the False Claims Act.^{iv} In conjunction with this Executive Order, ED has already initiated Section 117 investigations at several universities, including Harvard University,^v University of California, Berkeley,^{vi} University of Pennsylvania,^{vii} and University of Michigan.^{viii}
- ***The Trump Administration has appointed Section 117 experts to positions at ED, which will allow the agency to quickly ramp up oversight activities.*** For example, ED’s press release announcing a senior appointee in the Office of General Counsel emphasized the appointee’s involvement in ED’s investigation of foreign funding at colleges and universities during the first Trump term.^{ix} As an another example, prior to his appointment as a senior policy staffer during the second Trump term, the appointee criticized the Biden Administration’s enforcement of Section 117 and argued that the next administration should engage in more aggressive oversight of foreign gift reporting requirements.^x
- ***ED is also being pressured by its watchdog agency to improve Section 117 enforcement.*** A February 2025 ED Office of Inspector General (“OIG”) Report found that ED’s oversight of institutions’ reporting of foreign gifts and contracts needed improvement. The OIG Report made six recommendations for improving ED’s oversight of Section 117 reporting. Perhaps

most relevant to institutions of higher education, OIG recommended that ED require an annual certification from a high-level official at all Title IV institutions certifying full compliance with Section 117 reporting requirements. OIG also recommended that ED implement policies and procedures to detect inaccuracies, incomplete submissions, or instances of non-reporting—the effect of which would be to “motivate[] institutions to comply with the requirements of Section 117.”^{xi} We anticipate ED may address the recommendations in the OIG report when carrying out President Trump’s Executive Order to enforce Section 117.

- ***Guidance issued during the first Trump term provides insight into how the second Trump Administration may respond to Section 117 violations.*** In November 2020, ED issued a notification of interpretation clarifying that an institution’s failure to adequately report Section 117 gifts and contracts would be considered a violation of 20 U.S.C. § 1094(a)(17).^{xii} That provision requires institutions, as a condition of participating in Title IV programs, to complete surveys “conducted as a part of [...] any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.”^{xiii} The November 2020 notification clarified that Section 117’s reporting requirements are a “Federal data collection effort, as designated by the Secretary” under 20 U.S.C. § 1094(a)(17).^{xiv} Importantly, it appears the Trump Administration would view an institution’s failure to report Section 117 information in a timely and accurate manner as a failure to comply with the institution’s requirements under its Program Participation Agreement, which could lead to a variety of corrective measures, up to the termination of an institution’s Title IV participation.^{xv}
- ***Lawmakers also appear interested in more aggressive enforcement of Section 117.*** In February 2025, Representative Michael Baumgartner (R-WA) reintroduced the Defending Education Transparency and Ending Rogue Regimes Engaging in Nefarious Transactions (DETERRENT) Act.^{xvi} Representative Baumgartner argues the bill is necessary to increase institutional transparency and to protect students and the higher education sector from potential foreign influence.^{xvii} The DETERRENT Act would amend Section 117 by lowering the foreign gift and contract reporting threshold from \$250,000 to \$50,000, with a \$0 reporting threshold for gifts from foreign countries or entities of concern. It would also prohibit contracts with foreign entities or countries of concern unless the institution receives a waiver from ED prior to entering the contract. It would require the disclosure of foreign gifts and contracts for individuals contributing to research or development projects carried out with federal research funds. And it would add enforcement provisions specifying fines for violations of Section 117. The House of Representatives passed the DETERRENT Act on a 241-169 basis, with 31 Democrats joining 210 Republicans to pass the bill.^{xviii} The bill was referred to the Senate HELP Committee on March 31, 2025, but has not moved since then.

Institutions must file a semiannual report disclosing any foreign ownership, gifts, or contracts with ED by January 31 or July 31, whichever is sooner.^{xix} If you have any questions regarding the upcoming July 31, 2025 reporting deadline or Section 117 generally, please contact one of the professionals in Powers’ Higher Education practice group.

ⁱ See e.g., *Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative*, Exec. Order No. 14,219, 90 Fed. Reg. 10,583 (Feb. 25, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-02-25/pdf/2025-03138.pdf>.

ⁱⁱ See 20 U.S.C. § 1011f(a).

ⁱⁱⁱ See *Transparency Regarding Foreign Influence at American Universities*, Exec. Order 14,282, 90 Fed. Reg. 17,541 (Apr. 23, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-04-28/pdf/2025-07379.pdf>.

^{iv} See *Transparency Regarding Foreign Influence at American Universities*, Exec. Order 14,282, 90 Fed. Reg. 17,541, 17,541-42 (Apr. 23, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-04-28/pdf/2025-07379.pdf>. A misrepresentation about compliance with a statutory, regulatory, or contractual requirement must be *material* to the Government's payment decision in order to be actionable under the False Claims Act. See *Universal Health Servs., Inc. v. U.S. ex rel Escobar*, 136 S.Ct. 1989, 2002 (2016). Material means “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” 31 U.S.C. § 3729(b)(4).

^v See Press Release, U.S. Dept. of Educ., *U.S. Department of Education Initiates Records Request from Harvard University After Discovering Inaccurate Foreign Financial Disclosures* (Apr. 18, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-records-request-harvard-university-after-discovering-inaccurate-foreign-financial-disclosures>; U.S. Dept. of Educ., *Notice of 20 U.S.C. § 1011f Investigation* (Apr. 17, 2025), <https://www.ed.gov/media/document/notice-of-investigation-harvard-university-april-17-2025-109861.pdf>.

^{vi} See Press Release, U.S. Dept. of Educ., *U.S. Department of Education Returns Section 117 Foreign Funding Enforcement to Office of General Counsel, Announces Investigation into UC Berkeley* (Apr. 25, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-returns-section-117-foreign-funding-enforcement-office-of-general-counsel-announces-investigation-uc-berkeley>; U.S. Dept. of Educ., *Notice of 20 U.S.C. § 1011f Investigation and Records Request* (Apr. 25, 2025), <https://fsapartners.ed.gov/sites/default/files/2025-05/NoticeofSec.117InvestigationUCBerkeleyApril252025.pdf>.

^{vii} See Press Release, U.S. Dept. of Educ., *U.S. Department of Education Opens Foreign Funding Investigation into University of Pennsylvania After Discovering Inaccurate and Untimely Foreign Financial Disclosures* (May 8, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-opens-foreign-funding-investigation-university-of-pennsylvania-after-discovering-inaccurate-and-untimely-foreign-financial>; U.S. Dept. of Educ., *Notice of 20 U.S.C. § 1011f Investigation and Records Request* (May 8, 2025), <https://www.ed.gov/media/document/letter-re-upenn-notice-of-foreign-funding-investigation-may-8-2025-109974.pdf>.

^{viii} See Press Release, U.S. Dept. of Educ., *U.S. Department of Education Opens Foreign Funding Investigation into the University of Michigan* (Jul. 15, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-opens-foreign-funding-investigation-university-of-michigan>; U.S. Dept. of Educ., *Notice of 20 U.S.C. § 1011f Investigation and Records Request* (Jul. 15, 2025), <https://www.ed.gov/media/document/university-of-michigan-section-117-investigation-letter-july-2025-110399.pdf>.

^{ix} See Press Release, U.S. Dept. of Educ., *U.S. Department of Education Announces Trump-Vance Appointees* (Apr. 15, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-announces-trump-vance-appointees>.

^x See Jonathan Pidluzny, *Stop the Mideast Money Fueling Campus Anti-Semitism*, CITY JOURNAL (Apr. 23, 2024), <https://www.city-journal.org/article/stop-the-mideast-money-fueling-campus-anti-semitism>.

^{xi} See U.S. DEPT. OF EDUC., OFF. OF INSPECTOR GENERAL, ED-OIG/I24DC0166, FSA’S OVERSIGHT OF SECTION 117 REPORTING REQUIREMENTS (Feb. 12, 2025), https://oig.ed.gov/sites/default/files/reports/2025-04/FY25%2520I24DC0166%2520%25282.12.25%2529v100_508_SECURED.pdf.

^{xii} See 85 Fed. Reg. 72,567, 72,568 (Nov. 13, 2020). See also 34 C.F.R. § 668.14(b)(19).

^{xiii} 20 U.S. Code § 1094(a)(17).

^{xiv} See 85 Fed. Reg. 72,567, 72,568 (Nov. 13, 2020) (quoting 20 U.S.C. § 1094(a)(17)).

^{xv} *See id.*

^{xvi} *See* H.R. 1048, 119th Cong. (2025), <https://www.congress.gov/bill/119th-congress/house-bill/1048/text>.

^{xvii} *See* Rep. Michael Baumgartner, *DETERRENT Act*,
https://edworkforce.house.gov/uploadedfiles/2.6.25_deterrent_act_one_pager.pdf.

^{xviii} H.R. 1048, 119th Cong., Roll Call No. 83 (2025), <https://clerk.house.gov/Votes/202583>.

^{xix} *See* 20 U.S.C. § 1011f(a); *see also* Electronic Announcement, Fed. Student Aid, GENERAL-25-31: Reminder – July 31 Reporting Deadline for Section 117 of the Higher Education Act of 1965 (June 27, 2025), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2025-06-27/reminder-july-31-reporting-deadline-section-117-higher-education-act-1965>.