

U.S. Universities' Dangerous Lack of Foreign Gift Transparency

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Article

July 15, 2019

Department of Education Confucius Institutes

Last month the Department of Education revealed it is investigating two universities, Georgetown and Texas A&M, for potential violations of foreign gift transparency laws. Federal law requires colleges and universities to disclose gifts totaling \$250,000 from a single foreign source in a calendar year, but Georgetown and Texas A&M's past filings "[may not fully capture](#)" their foreign receipts, the Department said in letters to the two institutions.

Both universities must now turn over documents regarding their gifts from Qatar and from two Chinese tech firms suspected of espionage, Huawei and ZTE. Since 2012, Georgetown [has disclosed](#) receiving \$350 million from Qatar and Texas A&M \$274 million. Neither has disclosed any gifts from Huawei or ZTE. Georgetown is also being asked to disclose gifts from Saudi Arabia and from Russia, including from cybersecurity company Kaspersky Lab. In its original disclosure filings, it reported \$6 million from Saudi Arabia and none from any source in Russia.

For years, colleges have been collecting foreign gifts—some with alarming strings attached—without bothering to follow federal law. My organization, the National Association of Scholars, helped blow the whistle on these violations in our [2017 report on Chinese government-funded Confucius Institutes](#), which offer a unilaterally pro-China outlook and suppress academic freedom. Many Confucius Institutes brought in major donations to their host universities that never reported those gifts. In a separate report, the [U.S. Senate Permanent Subcommittee on Investigations found](#) that 70% of colleges whose Confucius Institutes cleared the \$250,000-per-year disclosure threshold failed to report those gifts in accordance with the law.

These failures are concerning not just because they violate federal law, but because they indicate higher education's lax approach to foreign gifts. Colleges have for years held their arms wide open to foreign donors, setting up foreign-funded campuses in other countries, centers and endowed professorships at their US campuses, and study abroad programs—sometimes without due diligence for protecting academic freedom, intellectual property, and the quality of education. Last year FBI Director Christopher Wray [testified](#) before the Senate that “the level of naïveté on the part of the academic sector about this creates its own issues” and noted the FBI is investigating espionage on colleges and universities, including at Confucius Institutes.

Why don't colleges exercise greater care in vetting foreign gifts, or at least follow disclosure laws? Partly this is a problem of lax enforcement. The Department of Education has never issued regulatory guidance on foreign gift transparency and [hasn't written to colleges on the issue since 2004](#). It can call on the Attorney General to sue universities that fail to report gifts, but has never done so.

Largely it is a problem of university negligence. Universities claimed to be unsure whether gifts made to their foundations counted towards the disclosure minimum. The American Council on Education and six other higher education groups [have written to the Department of Education](#), asking for clarity on what exactly the law requires. Other,

institutions appear to be intentional about skirting the law to shield foreign patrons.

When the Zachor Legal Institute filed a Freedom of Information request with Texas A&M

for information on Qatari gifts, the university denied the request and alerted Qatar, which hired a law firm to sue Texas's Attorney General to prevent the release of information.

But we also have a problem of outdated transparency laws. Current federal law contains loopholes and lacks crucial information that can help the public distinguish benign from potentially problematic gifts.

Ohio Senator Rob Portman has led the way in pushing for better gift transparency. He chaired the Permanent Subcommittee on Investigations that produced the report on Confucius Institutes. In hearings, he has pushed the Department of Education to do more to enforce disclosure laws. He deserves credit for making foreign gift transparency a national issue.

Now it's time to update the existing laws, which need five major reforms.

First, colleges need to disclose the names of all foreign donors. The [current disclosures for the years 2012-2018](#), available from the Department of Education, include more than 3,000 gifts with no donor name included. These are virtually useless for distinguishing gifts that might compromise a university. Federal law should require not only the country of origin, but also the legal name of the person or institution making the gift. When the donor is a foreign government, the disclosure should include the specific government agency making the gift.

Second, any gifts to a college made by a registered foreign agent of another country should be disclosed as well. Up until now, with lax enforcement of transparency laws, foreign donors who desire anonymity have had little need to seek work-arounds. But we should anticipate that growing interest in tracking foreign gifts might incentivize some donors to run gifts through US-based agents.

Third, the threshold for disclosure must be lowered. Gifts well below \$250,000 gift are

significant to most colleges and universities, especially in the humanities. \$50,000 is a more appropriate threshold.

Fourth, we must close loopholes. The law needs to specify that in-kind gifts count toward the disclosure minimum. It must clarify that foreign gifts to university foundations are not immune to disclosures.

Finally—and perhaps most important—colleges should disclose the purpose of foreign gifts. We should know if a gift is for general operating funds, cancer research, scholarships, or funding a campus center. If it is to be used to endow a professorship, like the Sultan Qaboos bin Said Professorship in Middle East Studies funded at the College of William and Mary by the Sultan of Oman, the public should know that too. (The Sultan’s gift to William and Mary, by the way, appears on none of the Department of Education’s records of foreign gift disclosures—though the College announced the gift in a [2012 press release](#).)

Disclosing the purpose of the gift is crucial. Of course any gift, especially if large and high-profile, could incentivize an institution to prioritize a donor’s pet projects. But we cannot make informed judgments and identify potentially problematic transactions without knowing the conditions of the gift.

These steps would go a long way toward making colleges and universities more accountable and better protected against undue foreign influence. It’s time to update foreign gift disclosures.

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This article was originally [published by RealClearEducation](#) on July 12, 2018.

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