

117TH CONGRESS  
1ST SESSION

# H. R. 1160

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2021

Mr. MURPHY of North Carolina (for himself, Mr. RICE of South Carolina, Mr. TIFFANY, and Mr. BUDD) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Higher Education Act of 1965 to improve protections against foreign influence at institutions of higher education, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intelligence on Nefar-  
5 ious Foreign Leaders Using Education Networks for Cor-  
6 rupt Enrichment Act” or the “INFLUENCE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1           (1) Schools in the United States, especially in-  
2           stitutions of higher education overseeing either sen-  
3           sitive research or critical military technology sys-  
4           tems, have provided a level of access to the Chinese  
5           government that the Chinese government has re-  
6           fused to provide to the United States.

7           (2) China’s control over the flow of information  
8           means the American people have an incomplete pic-  
9           ture of Chinese government actions and policies that  
10          run counter to the interest of the United States at  
11          home and abroad.

12          (3) In the last 15 years, the Chinese govern-  
13          ment has opened over 100 Confucius Institutes on  
14          college and university campuses in the United States  
15          to increase their cultural standing in popular cul-  
16          ture. While there are currently more than 500 Con-  
17          fucius Institutes worldwide, the United States has  
18          more Confucius Institutes than any other country.

19          (4) Federal Government officials have expressed  
20          concerns about Confucius Institutes. Christopher  
21          Wray, Director of the Federal Bureau of Investiga-  
22          tion, testified that the FBI is “watching warily”  
23          Confucius Institutes and “in certain instances have  
24          developed appropriate investigative steps”.

1           (5) The Department of Education has not con-  
2           ducted regular oversight of the compliance of institu-  
3           tions of higher education with foreign gift reporting  
4           requirements and, until recently, has failed to ade-  
5           quately enforce the requirements of section 117 of  
6           the Higher Education Act of 1965 (relating to dis-  
7           closures of foreign gifts). The Department of Edu-  
8           cation maintains a database detailing the reporting  
9           of foreign gifts received by institutions, but relies  
10          solely on the institutions to self-report gifts.

11          (6) The Department of Education is updating  
12          the reporting requirements applicable to institutions  
13          of higher education. Previously, the Department of  
14          Education had not issued guidance on foreign gift  
15          reporting by institutions of higher education since  
16          2004. As a result, institution's informed Congress  
17          that the reporting requirements were unclear and  
18          confusing. Institutions also informed Congress that  
19          the Department of Education website used to report  
20          foreign gifts was dated and difficult to use.

21          (7) Absent full transparency regarding how  
22          Confucius Institutes operate and full reciprocity for  
23          the cultural outreach efforts of the United States on  
24          college campuses in China, Confucius Institutes

1       should not continue in the United States unchecked  
2       or unsupervised.

3   **SEC. 3. ENHANCED DISCLOSURE OF CERTAIN FOREIGN**  
4                   **GIFTS AND CONTRACTS.**

5       Section 117 of the Higher Education Act of 1965 (20  
6   U.S.C. 1011f) is amended—

7               (1) by amending subsection (a) to read as fol-  
8       lows:

9       “(a) DISCLOSURE REPORT.—An institution shall file  
10   a disclosure report with the Secretary on January 31 or  
11   July 31, whichever is sooner, whenever one or more of the  
12   following occurs:

13               “(1) The institution is owned or controlled by  
14       a foreign source.

15               “(2) The institution receives a gift from or en-  
16       ters into a contract with a foreign source determined  
17       by the Secretary to be acting directly or indirectly  
18       on behalf of a foreign government that is adversarial  
19       to the United States, regardless of the value of the  
20       gift or contract.

21               “(3) The institution receives a gift from or en-  
22       ters into a contract with a foreign source not de-  
23       scribed in paragraph (2), the value of which is—

24                       “(A) \$50,000 considered alone; or

1 “(B) \$100,000 or more in combination  
2 with all other gifts from or contracts with that  
3 foreign source within a calendar year.”;

4 (2) by amending subsection (e) to read as fol-  
5 lows:

6 “(e) PUBLIC AVAILABILITY OF INFORMATION.—

7 “(1) PUBLIC INSPECTION.—Subject to para-  
8 graph (4), all disclosure reports required by this sec-  
9 tion shall be public records open to inspection and  
10 copying during business hours.

11 “(2) PUBLICATION BY DEPARTMENT OF EDU-  
12 CATION.—Not later than 180 days after the date of  
13 enactment of the INFLUENCE Act, and on an an-  
14 nual basis thereafter, the Secretary of Education  
15 shall make available, on a publicly accessible website  
16 of the Department of Education, a database of the  
17 information disclosed to the Secretary under this  
18 section during the preceding year.

19 “(3) PUBLICATION BY INSTITUTIONS.—Not  
20 later than 180 days after the date of enactment of  
21 the INFLUENCE Act, and on an annual basis  
22 thereafter, each institution that receives a gift or en-  
23 ters into a contract described in subsection (a) shall  
24 make available, on a publicly accessible website of  
25 the institution—

1           “(A) in the case of a gift described in such  
2 subsection, a detailed explanation of the gift,  
3 including the amount of the gift, identification  
4 of the source of the gift, and any conditions or  
5 restrictions on the gift; and

6           “(B) in the case of a contract described in  
7 such subsection, a complete and accurate copy  
8 of the contract.

9           “(4) RESTRICTION ON PUBLICATION OF SEN-  
10 SITIVE INFORMATION.—

11           “(A) IN GENERAL.—Information made  
12 publicly available under this section shall not  
13 include information that is determined by an in-  
14 stitution to be confidential, proprietary, or oth-  
15 erwise prohibited from disclosure by law.

16           “(B) ENFORCEMENT AUTHORITY.—If the  
17 Secretary determines that an institution of  
18 higher education willfully or negligently dis-  
19 closed information that is confidential, propri-  
20 etary, or otherwise prohibited from disclosure  
21 by law in violation of subparagraph (A), the  
22 Secretary may declare such institution ineligible  
23 to participate in programs authorized under  
24 title IV of this Act.”; and

1           (3) in subsection (f)(2), by inserting before the  
 2           period at the end the following: “, in addition to any  
 3           other amounts as determined appropriate by the  
 4           Secretary of Education”.

5   **SEC. 4. FOREIGN INVOLVEMENT IN SENSITIVE PROJECTS.**

6           The Higher Education Act of 1965 (20 U.S.C. 1001  
 7   et seq.) is further amended by inserting after section 117  
 8   the following:

9   **“SEC. 117a. REQUIREMENTS FOR CERTAIN FOREIGN CON-**  
 10                           **TRACTS.**

11           “(a) FOREIGN INVOLVEMENT IN SENSITIVE  
 12   PROJECTS.—

13                   “(1) IN GENERAL.—In a case in which an insti-  
 14           tution enters into a contract with a foreign indi-  
 15           vidual under which the individual will participate in  
 16           a sensitive project—

17                           “(A) the institution shall disclose to the  
 18           Secretary—

19                                   “(i) the date on which individual is  
 20                                   expected to return to their home country;  
 21                                   and

22                                   “(ii) and the name of the country to  
 23                                   which the individual is expected to return;  
 24                                   and

25                                   “(B) such contract shall provide—

1 “(i) that the individual may not dis-  
2 close information derived from such project  
3 to a foreign government or any other for-  
4 eign entity; and

5 “(ii) that the penalties for disclosure  
6 of such information shall be the cancella-  
7 tion of the contract and a requirement to  
8 reimburse the Federal Government as de-  
9 scribed in paragraph (2).

10 “(2) LIABILITY FOR DISCLOSURE.—A foreign  
11 individual who knowingly or willfully discloses infor-  
12 mation in violation of a contract under paragraph  
13 (1) shall be required to reimburse the Federal Gov-  
14 ernment for the full costs of any investigation or ad-  
15 ministrative action resulting from such violation, in  
16 addition to any other amounts as determined appro-  
17 priate by the Secretary.

18 “(b) CHINA-AFFILIATED CULTURAL OR LANGUAGE  
19 PROGRAM.—In a case in which an institution enters into  
20 a contract with an individual or entity under which a  
21 China-affiliated cultural or language program will be al-  
22 lowed to operate at the institution, such contract—

23 “(1) shall include a provision protecting aca-  
24 demic freedom at the institution; and



1 “(2) shall not include any provision that would  
 2 limit the rights of an individual under the Constitu-  
 3 tion of the United States.

4 “(c) DEFINITIONS.—In this section:

5 “(1) The term ‘China-affiliated cultural or lan-  
 6 guage program’ means any project, program, or  
 7 other activity that—

8 “(A) seeks to familiarize students with  
 9 Chinese language or culture; and

10 “(B) is directly or indirectly funded by the  
 11 Government of the People’s Republic of China.

12 “(2) The term ‘sensitive project’ means any  
 13 project, program, or other activity carried out by an  
 14 institution—

15 “(A) that is funded, in whole or in part, by  
 16 Federal funds; and

17 “(B) for which a security clearance is re-  
 18 quired as a condition of participation.”.

19 **SEC. 5. INTERAGENCY COORDINATION ON ENFORCEMENT**  
 20 **OF FOREIGN GIFT AND CONTRACT REQUIRE-**  
 21 **MENTS.**

22 The Higher Education Act of 1965 (20 U.S.C. 1001  
 23 et seq.) is further amended by inserting after section 117a  
 24 (as added by section 4) the following:

1 **“SEC. 117b. INTERAGENCY COORDINATION ON ENFORCE-**  
2 **MENT OF FOREIGN GIFT AND CONTRACT RE-**  
3 **QUIREMENTS.**

4 “(a) NOTIFICATION OF VIOLATIONS.—The Secretary  
5 of Education shall establish a process to notify appro-  
6 priate Federal agencies of any violation of section 117 or  
7 section 117a.

8 “(b) CONSIDERATION OF ENFORCEMENT ACTION.—  
9 After receiving notice of a violation under subsection (a),  
10 the head of the Federal agency that received such notice  
11 shall determine—

12 “(1) whether such violation constitutes a viola-  
13 tion of a provision of law over which the agency has  
14 enforcement authority; and

15 “(2) if such a violation occurred, whether to  
16 pursue an enforcement action against the individual  
17 or entity responsible for the violation.”.

18 **SEC. 6. REPORTS.**

19 Section 636 of the Higher Education Act of 1965 (20  
20 U.S.C. 1132–5) is amended to read as follows:

21 **“SEC. 636. REPORT ON FOREIGN AND NATIONAL SECURITY**  
22 **ISSUES AFFECTING INSTITUTIONS OF HIGH-**  
23 **ER EDUCATION.**

24 “(a) REPORT REQUIRED.—On an annual basis, the  
25 Secretary of Education, in consultation and collaboration  
26 with the Secretary of State, the Secretary of Defense, the

1 Director of National Intelligence, the Attorney General,  
2 and the heads of other relevant Federal agencies, shall  
3 submit to the authorizing committees a report on foreign  
4 and national security issues affecting institutions of higher  
5 education.

6 “(b) ELEMENTS.—Each report under subsection (a)  
7 shall include—

8 “(1) identification of areas of national need in  
9 foreign language, area, and international studies as  
10 such studies relate to government, education, busi-  
11 ness, and nonprofit needs and a plan to address  
12 those needs;

13 “(2) a description of any risks associated with  
14 allowing foreign students and other foreign individ-  
15 uals at institutions of higher education to access  
16 classified information, protected intellectual prop-  
17 erty, research and development information, and  
18 military technology critical to the national security  
19 of the United States;

20 “(3) best practices that may be implemented by  
21 the Department of Education, the Department of  
22 Defense, and other Federal agencies with respon-  
23 sibilities relating to national security to strengthen  
24 the secrecy of grants, projects, and contracts that  
25 involve providing foreign individuals at institutions

1 of higher education with access to classified or sen-  
2 sitive information, including recommended enforce-  
3 ment actions to respond to the misuse of such infor-  
4 mation;

5 “(4) a description of the ongoing efforts of Fed-  
6 eral law enforcement organizations, including the  
7 Federal Bureau of Investigation, to address the theft  
8 of sensitive information by adversarial foreign ac-  
9 tors; and

10 “(5) a summary of any information from na-  
11 tional security-related projects at institutions of  
12 higher education that was stolen, misused, or wrong-  
13 fully disclosed during the period covered by the re-  
14 port and any actions taken to remedy the theft, mis-  
15 use, or disclosure of such information.

16 “(c) FORM OF REPORT.—Each report under sub-  
17 section (a) shall be submitted in unclassified form, but  
18 may include a classified annex.

19 “(d) PUBLIC AVAILABILITY.—The Secretary of Edu-  
20 cation shall make each report under subsection (a) avail-  
21 able on a publicly accessible website of the Department  
22 of Education, except no report published on such website  
23 shall contain classified information.”.

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