

§ 19039. Foundation funding to institutions hosting or supporting Confucius Institutes

(Pub. L. 117–167, div. B, title III, §10339A, Aug. 9, 2022, 136 Stat. 1555.)

(a) Confucius Institute defined

In this section the term “Confucius Institute” means a cultural institute established as a partnership between a United States institution of higher education and a Chinese institution of higher education to promote and teach Chinese language and culture that is funded, directly or indirectly, by the Government of the People’s Republic of China.

(b) Restrictions of Confucius Institutes

Except as provided in subsection (d), none of the funds made available to the Foundation under this division or division A, or an amendment made by this division or division A, may be obligated or expended to an institution of higher education that maintains a contract or agreement between the institution and a Confucius Institute, unless the Director, after consultation with the National Academies, determines such a waiver is appropriate in accordance with subsection (c).

(c) Waiver

The Director, after consultation with the National Academies, may issue a waiver for an institution of higher education that maintains a contract or agreement between the institution and a Confucius Institute if such contract or agreement includes clear provisions that—

- (1) protect academic freedom at the institution;
- (2) prohibit the application of any foreign law on any campus of the institution;
- (3) grant full managerial authority of the Confucius Institute to the institution, including full control over what is being taught, the activities carried out, the research awards that are made, and who is employed at the Confucius Institute; and
- (4) prohibit co-location with the institution’s Chinese language, history, and cultural programs and require separate promotional materials.

(d) Special rule

(1) In general

Notwithstanding any other provision of this section, this section shall not apply to an institution of higher education if that institution has fulfilled the requirements for a waiver from the Department of Defense as described under section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

(2) Exception

Notwithstanding any other provision of this section, the prohibition under subsection (b) shall not apply to amounts provided to students as educational assistance.

(e) Effective date

The limitation under subsection (b) shall apply with respect to the first fiscal year that begins after the date that is two years after August 9, 2022, and to any subsequent fiscal year subject to subsection (f).

(f) Sunset

This section shall cease to be effective on the date that is five years after August 9, 2022.

Editorial Notes

REFERENCES IN TEXT

This division, referred to in subsec. (b), is div. B of Pub. L. 117–167, Aug. 9, 2022, 136 Stat. 1399, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of div. B to the Code, see Short Title note set out under section 18901 of this title and Tables.

Division A, referred to in subsec. (b), is div. A of Pub. L. 117–167, Aug. 9, 2022, 136 Stat. 1372, known as the CHIPS Act of 2022. For complete classification of div. A to the Code, see Short Title of 2022 Amendment note set out under section 4651 of Title 15, Commerce and Trade, and Tables.

Section 1062 of the National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (d)(1), probably means section 1062 of Pub. L. 116–283, known as the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, which is set out as a note under section 2241 of Title 10, Armed Forces.

§ 19040. Foreign financial support

(a) In general

The Director shall request, on an annual basis, from a recipient institution of higher education a disclosure, in the form of a summary document, from the institution, a foundation of the institution, and related entities such as any educational, cultural, or language entity, of the current financial support, the value of which is \$50,000 or more, including gifts and contracts, received directly or indirectly from a foreign source (as such term is defined in section 1011f(h)(2) of title 20) associated with a foreign country of concern.

(b) Records

Each disclosure to the Director under this section shall be made on the condition that the institution will maintain a true copy of the relevant records subject to the disclosure requirement until the latest of—

- (1) the date that is four years after the date of the agreement;
- (2) the date on which the agreement terminates; or
- (3) the last day of any period that applicable State public record law requires a true copy of such agreement to be maintained.

(c) Documentation

Upon review of the disclosures under this section, the Director may request that a recipient institution provide true copies of any contracts, agreements, or documentation of financial transactions associated with disclosures made under this section.

(d) Office of the Inspector General

The Director, acting through the Office of Research Security and Policy in coordination with the Foundation’s Office of Inspector General and in consultation with the recipient institution, may reduce the award funding amount or suspend or terminate the award if the Director determines—

- (1) such institution fails to comply with the records retention requirement in subsection