



4000-01-U

**DEPARTMENT OF EDUCATION**

**Notice of Investigation and Record Requests**

**AGENCY:** Office of the General Counsel, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department publishes letters, dated July 3, 2019, notifying Cornell University and Rutgers University of investigations related to the universities' reports of defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source.

**FOR FURTHER INFORMATION CONTACT:** Patrick Shaheen, U.S. Department of Education, Office of the General Counsel, 400 Maryland Ave., SW, room 6E300, Washington, DC 20202. Telephone: (202) 453-6339. Email: Patrick.Shaheen@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Department publishes letters, dated July 3, 2019, notifying Cornell University and Rutgers University of investigations related to the universities' reports of defined gifts and contracts,

including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source. The letter to Cornell University is in Appendix A of this notice. The letter to Rutgers University is in Appendix B of this notice.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article

search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. § 1011f.

**Reed D. Rubinstein,**  
*Acting General Counsel.*

Appendix A - Letter to Cornell University

Martha E. Pollack, President  
300 Day Hall  
Cornell University  
Ithaca, NY 14853

Re: Notice of 20 U.S.C. § 1011f Investigation and Record  
Request/Cornell University

Dear President:

Section 117 of the Higher Education Act of 1965, 20 U.S.C. § 1011f, requires certain institutions, including Cornell University, to report statutorily defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source, to the U.S. Department of Education. These reports are posted at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

The Department believes Cornell University's reporting may not fully capture all gifts, contracts, and/or restricted and conditional gifts or contracts from or with all foreign sources to all of Cornell University's campuses and/or affiliated foundations and non-profit organizations - whether or not organized under the laws of the United States - that operate substantially for the benefit for or under the auspices of Cornell University (e.g., the Cornell University Foundation and the Cornell University Foundation (UK), Ltd.).

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet our statutory duty, the Department has opened an administrative investigation of your institution and requests production of these records within thirty days:

1. All records of gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign

source. The time frame for this request is January 1, 2014, to the present.

2. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with (a) the government of the People's Republic of China, its agencies, and agents, including but not limited to those persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, their employees, subsidiaries, agents, and affiliates; and (b) the government of Qatar, its agencies, and agents, including but not limited to the Qatar Foundation for Education, Science and Community Development aka Qatar Foundation aka Qatar National Research Fund. The time frame for this request is January 1, 2012, to the present.
3. All records of, regarding, or referencing gifts, contracts, or restricted or conditional gifts or contracts from or with a foreign source to, with, or for the benefit of the Cornell Laboratory for Accelerator-Based Sciences and Education. The time frame for this request is January 1, 2010 to the present.
4. All records of, regarding, or referencing activities taken by Cornell University to comply with 20 U.S.C. §§ 1011f(a), (b), (c), and (e). The time frame for this request is January 1, 2014, to the present.
5. All records of, regarding, or referencing activities taken by or required of Cornell University to confirm each foreign source of a gift, contract, and/or restricted or conditional gift or contract (a) does not engage in, or provide material support to any person who engages in, activities prohibited by 18 U.S.C. §§ 2339, 2339A, 2339B, 2339C, and 2339D; and (b) (i) is not owned or controlled by, (ii) does not act for or on behalf of, assist, sponsor, or provide financial, material, or technological support or other services to, or in support of, and (iii) is not otherwise associated with, any person who is a "Specially Designated Global Terrorist" under Executive Order 13224. The time frame for this request is January 1, 2010, to the present.

6. All IRS Form 990s and schedules, including Schedules F and R, for tax years 2014, 2015, 2016, 2017, and 2018, for Cornell University, the Cornell University Foundation, and the Cornell University Foundation (UK), Ltd.

As used in this Notice of Investigation and Information Request:

"Agent" means any person, including a subsidiary or affiliate of a foreign or domestic legal entity, who acts for or in place of another.

"Contract" has the meaning given at 20 U.S.C. § 1011f(h) (1).

"Foreign source" has the meaning given at 20 U.S.C. § 1011f(h) (2).

"Gift" has the meaning given at 20 U.S.C. § 1011f(h) (3).

"Institution" has the meaning given at 20 U.S.C. § 1011f(h) (4) and includes all affiliated foundations and non-profit organizations that operate substantially for the benefit or under the auspices of Cornell University, such as the Cornell University Foundation and the Cornell University Foundation (UK) Ltd.

"Record" means all recorded information, regardless of form or characteristics, made or received by you, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, Internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if

necessary, after translation by the responding party into a reasonably usable form. The term "recorded information" also includes all traditional forms of records, regardless of physical form or characteristics.

"Restricted or conditional gift or contract" has the meaning given at 20 U.S.C. § 1011f(h) (5).

If you claim attorney-client or attorney-work product privilege for a given record, then you must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess your claim's validity. Please note no other privileges apply here. Your record and data preservation obligations are outlined at Exhibit A.

This investigation will be directed by the Department's Office of General Counsel with support from Federal Student Aid. Your legal counsel should contact:

Reed D. Rubinstein, Acting General Counsel  
U.S. Department of Education  
400 Maryland Ave., S.W., Room 6E300  
Washington, D.C. 20202  
Reed.Rubinstein@ed.gov

Sincerely,

Mitchell M. Zais, Ph.D.

Appendix B - Letter to Rutgers University

Robert L. Barchi, President  
Rutgers, The State University of New Jersey  
Winants Hall  
7 College Avenue, 2nd Floor  
New Brunswick, NJ 08901

Re: Notice of 20 U.S.C. § 1011f Investigation and Record  
Request/Rutgers University

Dear President:

Section 117 of the Higher Education Act of 1965, 20 U.S.C. § 1011f, requires certain institutions, including Rutgers, The State University of New Jersey ("Rutgers University"), to report statutorily defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source, to the U.S. Department of Education. These reports are posted at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

The Department believes Rutgers University's reporting may not fully capture all gifts, contracts, and/or restricted and conditional gifts or contracts from or with all foreign sources to all of Rutgers University's campuses and affiliated foundations and non-profit organizations - whether or not organized under the laws of the United States - that operate substantially for the benefit for or under the auspices of Rutgers University (e.g., the Rutgers University Foundation).

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet our statutory duty, the Department has opened an administrative investigation of your institution and requests production of these records within thirty days:

1. All records of gifts, contracts, and/or restricted or conditional gifts or contracts from or with a foreign source. The time frame for this request is January 1, 2014, to the present.
2. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with (a) the government of the People's Republic of China, its agencies, and agents, including but not limited to those persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, their employees, subsidiaries, agents, and affiliates; (b) the government of Qatar, its agencies, and agents, including but not limited to those persons known as the Qatar Foundation for Education, Science and Community Development aka the Qatar Foundation aka the Qatar National Research Fund; and (c) the government of Russia, its agencies, and agents, including but not limited to Kaspersky Lab and Kaspersky Lab US, its agents, and affiliates. The time frame for this request is January 1, 2012, to the present.
3. All records of, regarding, or referencing communications between Prof. John V. Pavlik and the government of Qatar, its agents, subsidiaries, and affiliates, including but not limited to the Qatar National Research Fund. The time frame for this request is January 1, 2010, to the present.
4. All records of, regarding, or referencing "Hanban" or the Office of Chinese Language Council International. The time frame for this request is January 1, 2014 to the present.
5. All records of, regarding, or referencing gifts, contracts, and/or restricted or conditional gifts or contracts from or with the Confucius Institute (including the Confucius Institute of Rutgers University), its agents, employees, affiliates, or subsidiaries. The time frame for this request is January 1, 2010 to the present.
6. All gifts, contracts, or restricted or conditional gifts or contracts (e.g., "General Cooperation Agreements", "Abbreviated General Cooperation Agreements", "To establish the Joint Research

Laboratory for Advanced Electronic Materials and Sensors", "Double Degree Programs", "Research Collaboration", and "Other") from or with entities identified as "Partner Institutions" at <https://internationalpartnerships.gaiacenters.rutgers.edu/> and located in China, Pakistan, Qatar, Russia, or Saudi Arabia. The time frame for this request is January 1, 2014, to the present.

7. All records of, regarding, or referencing activities taken by Rutgers University to comply with 20 U.S.C. §§ 1011f(a), (b), (c), and (e). The time frame for this request is January 1, 2014, to the present.
8. All records of, regarding, or referencing activities taken by Rutgers University to confirm each foreign source of a gift, contract, and/or restricted or conditional gift or contract (a) does not engage in, or provide material support to any person who engages in, activities prohibited by 18 U.S.C. §§ 2339, 2339A, 2339B, 2339C, and 2339D; and (b) (i) is not owned or controlled by, (ii) does not act for or on behalf of, assist, sponsor, or provide financial, material, or technological support or other services to, or in support of, and (iii) is not otherwise associated with, any person who is a "Specially Designated Global Terrorist" under Executive Order 13224. The time frame for this request is January 1, 2010, to the present.
9. All IRS Form 990s and schedules, including Schedules F and R, for tax years 2014, 2015, 2016, 2017, and 2018, for Rutgers University and the Rutgers University Foundation.

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"Foreign source" has the meaning given at 20 U.S.C. § 1011f(h)(2).

"Gift" has the meaning given at 20 U.S.C. § 1011f(h)(3).

"Institution" has the meaning given at 20 U.S.C. § 1011f(h)(4) and includes all affiliated foundations and non-profit organizations that operate substantially for the benefit or under the auspices of Rutgers University, such as the Rutgers University Foundation.

"Record" means all recorded information, regardless of form or characteristics, made or received by you, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, Internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term "recorded information" also includes all traditional forms of records, regardless of physical form or characteristics.

"Restricted or conditional gift or contract" has the meaning given at 20 U.S.C. § 1011f(h)(5).

If you claim attorney-client or attorney-work product privilege for a given record, then you must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess your claim's validity. Please note no other privileges apply here.

Your record and data preservation obligations are outlined at Exhibit A.

This investigation will be directed by the Department's Office of General Counsel with support from Federal Student Aid. Your legal counsel should contact:

Reed D. Rubinstein, Acting General Counsel  
U.S. Department of Education  
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Reed.Rubinstein@ed.gov

Sincerely,

Mitchell M. Zais, Ph.D.  
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