



U.S. Department of Education
Office of Inspector General

FSA's Oversight of Section 117 Reporting Requirements

February 12, 2025
ED-OIG/I24DC0166

Inspection Report

NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services

February 12, 2025

TO: Denise Carter
Acting Chief Operating Officer
Federal Student Aid

FROM: Sean Dawson /s/
Assistant Inspector General for Audit

SUBJECT: Final Inspection Report, "FSA's Oversight of Section 117 Reporting Requirements,"
Control Number ED-OIG/I24DC0166

Attached is the subject final inspection report that consolidates the results of our review of FSA's oversight of Section 117 reporting requirements. We have provided an electronic copy to your audit liaison officer. We received your comments in response to our draft report.

U.S. Department of Education policy requires that you submit a corrective action plan within 30 days of the issuance of this report. The corrective action plan should set forth the specific action items and targeted completion dates necessary to implement final corrective actions on the findings and recommendations contained in this final report. Corrective actions that your office proposes and implements will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on recommendations that have not been completed after 6 months from the date of issuance.

We appreciate your cooperation during this inspection. If you have any questions, please contact Michele Weaver-Dugan at (202) 360-8454 or Michele.Weaver-Dugan@ed.gov.

Attachment

Results in Brief

FSA's Oversight of Section 117 Reporting Requirements



Why the OIG Performed This Inspection

Congress enacted section 117 of the Higher Education Act, as amended, (Section 117) mandating financial transparency of institutions of higher education (institution) through required reporting of gifts from and contracts with a foreign source. Applicable institutions must file a disclosure report by one of the two annual reporting deadlines, January 31 or July 31, whichever is sooner, once the reporting obligation has been triggered.

Section 117 helps to raise awareness of potential foreign influence on college campuses which could help stakeholders assess, detect, and respond to potential threats to U.S. academic and research pursuits, free speech on campuses, and national security. In 2019, the Office of the General Counsel assumed responsibilities from Federal Student Aid (FSA) for primary oversight of Section 117 reporting. In October 2023, primary oversight responsibilities were formally delegated back to FSA.

The objective of our inspection was to evaluate FSA's oversight of institutions' reporting of foreign gifts and contracts under Section 117. To answer our objective, we reviewed FSA's oversight activities, along with FSA's monitoring plan, policies, and procedures related to its oversight of institutional reporting under Section 117. We also determined if FSA is accurately posting the data it receives from institutions.

What Did the OIG Find?

We found that FSA's oversight of institutions' reporting of foreign gifts and contracts under Section 117 needs improvement. Specifically, FSA's oversight activities are limited to reviewing whistleblower tips, Department of Education news bulletins, and other media reports for potential institutional noncompliance with Section 117 and providing technical assistance to institutions. FSA does not have any monitoring plans, policies, or procedures in place for its oversight of Section 117 reporting. Additionally, we found that FSA is accurately posting the data it receives from institutions through its Section 117 reporting portal onto its public-facing website; however, FSA could improve its Section 117 reporting portal to assist in identifying and reducing data input errors.

What Is the Impact?

If FSA does not have effective controls in place to help ensure institutional compliance with Section 117, executive branch agencies, policymakers, and the public will not have complete and accurate information on foreign funding being provided to U.S. postsecondary institutions. Without established policies, procedures, and plans to monitor institutional reporting activities, FSA faces challenges in detecting inaccuracies, incomplete submissions, or instances of non-reporting. This oversight deficiency hinders FSA's ability to ensure that institutions comply with Section 117 reporting requirements effectively. Implementing such measures would also encourage institutions to adhere to these requirements.

What Are the Next Steps?

We made six recommendations to improve FSA's oversight of institutions' reporting of foreign gifts and contracts under Section 117. Recommendations included assessing FSA's planned resourcing of Section 117 oversight, developing and implementing a monitoring plan, requiring Section 117-related data certifications each year from a high-level official at all applicable institutions, and including edit checks and instructions in the Section 117 reporting portal system that would help to ensure that institutions are properly classifying and providing required information for restricted gifts and contracts.

We provided a draft of this report to FSA for comment. FSA agreed with our conclusions, agreed with five recommendations, and partially agreed with one recommendation. FSA provided corrective actions and noted that it has implemented or is in the process of implementing actions for five of the recommendations. FSA's proposed corrective actions, if implemented as described, are responsive to our recommendations. We summarize FSA's comments and provide our responses at the end of the finding. We also provide the full text of FSA's comments at the end of the report (see [FSA Comments](#)). FSA also provided technical comments that we considered and addressed, as appropriate.

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Introduction

Background

Congress enacted section 117 of the Higher Education Act, as amended (Section 117) (20 United States Code 1011f), which mandates financial transparency in institutions of higher education (institution) by requiring the reporting of gifts from and contracts with a foreign source.¹ Section 117 requires institutions that receive Federal financial assistance² to submit to the Secretary of Education (Secretary) disclosure reports containing information about gifts received from any foreign source, contracts with a foreign source, and ownership in or control over the institution by a foreign source. Specifically, a disclosure report must be filed (by January 31 or July 31, whichever is sooner) with the Secretary if the institution is owned or controlled by a foreign source or if the value of a gift received from a foreign source or a contract entered into with a foreign source is valued \$250,000 or more when considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year.

If there is evidence that an institution is not meeting its reporting obligations, the U.S. Department of Education (Department) can ask the Department of Justice to bring a civil action in the appropriate U.S. Federal court to compel the institution to comply with the requirements of Section 117. If the institution's failure to comply with the requirements was knowing and willful, it will be required to pay to the Treasury the full costs of the U.S. obtaining compliance, including all associated costs of investigation and enforcement.

Additionally, for institutions participating in Federal student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended, failure to report Section 117 information timely and accurately is considered a failure to comply with reporting obligations and therefore a failure to comply with a requirement in their

¹ A substantially similar disclosure requirement had been in place since 1986 (Section 1209 of the Higher Education Act; 20 United States Code 1145d).

² All domestic institutions that offer a bachelor's degree or higher, or that offer a transfer program of not less than two years that is acceptable for credit toward a bachelor's degree.

Program Participation Agreement (PPA).³ The Department has authority to implement a range of corrective measures for an institution that violates its PPA, including a fine or termination of the institution’s Title IV participation.

Prior to 2019, Federal Student Aid (FSA) was the principal office charged with oversight of the Section 117 reporting requirements. From 2019 through 2022, the Office of the General Counsel (OGC) assumed primary responsibility for Section 117 oversight while FSA continued to handle various other Section 117 matters, such as maintaining the reporting portal institutions used to file disclosure reports.

An October 2020 OGC report on Section 117 compliance⁴ noted that prior to OGC assuming responsibility, the Department had taken no action to verify the reports it was receiving or to enforce the law against resisting institutions. Starting in June 2019, OGC opened and conducted investigations and inquiries into possible Section 117 noncompliance at 19 institutions. Investigations were opened based on OGC’s review of self-described engagements and activities with foreign sources on institution websites or no noted prior filings of, or limited disclosures noted on, Section 117 reports. The report noted that, as a result of increased oversight activities, there were approximately 60 institutions that filed a Section 117 disclosure report that had not submitted reports from 1986 through June 2020. The October 2020 report also noted that these 60 institutions disclosed more than \$350 million in foreign gifts and contracts during the July 31, 2020, reporting period.

In June 2022, the Department publicly noted its intent to shift OGC’s Section 117 oversight responsibilities to FSA and noted in a subsequent communication to Congress that the Department remained committed to ensuring robust compliance with Section 117 and continued to devote substantial resources towards that compliance. The formal

³ Once an institution has demonstrated that it meets all Title IV eligibility criteria, it must enter into a PPA in order to receive and pay out Federal student financial assistance. The PPA defines the terms and conditions that the institution must meet to begin and continue participation in the Title IV programs. In a Federal Register (FR) notice issued on November 13, 2020, the Department clarified its enforcement authority for schools’ failure to report under Section 117, citing 34 Code of Federal Regulation (CFR) 668.14(b)(19), which requires schools to “[c]omplete, in a timely manner and to the satisfaction of the Secretary, surveys conducted as part of the Integrated Postsecondary Education Data System or any other Federal collection effort, as designated by the Secretary, regarding data on postsecondary institutions[.]” 85 FR 72,567 (Nov. 13, 2020); 34 CFR 668.14(b)(19). The Department views Section 117 reporting as a Federal collection effort subject to this regulation.

⁴ [“Institutional Compliance with Section 117 of the Higher Education Act of 1965,”](#) October 2020.

delegation of authority from the Secretary to FSA to oversee Section 117 compliance occurred on October 13, 2023. Oversight responsibilities for Section 117 were specifically assigned within FSA to FSA's Clery Group. Although the bulk of the operational responsibilities are with FSA, there are still responsibilities that require FSA's coordination with other offices, including the Office of Postsecondary Education, Office of the Under Secretary, and OGC; OGC coordination includes FSA input on OGC investigations that have not yet been closed⁵ and OGC interpretations of the statutory requirements of Section 117 to aid in providing technical assistance to reporting institutions.

As of July 2024, FSA's website noted that approximately 5,500 postsecondary institutions participate in the Title IV programs. Approximately 265 institutions reported Section 117 data during the reporting period ending January 31, 2024 (this data was posted publicly in February 2024). FSA's website noted that the Section 117 foreign gift and contract reporting data set shows over 6,000 additional foreign gifts and contracts transactions valued at nearly \$3.8 billion since the Department's last data release on October 13, 2023 (covering the reporting period ending July 31, 2023). The website noted that the largest dollar amounts of gifts and contracts reported to the Department by institutions during the reporting period ending January 31, 2024, were from sources in China, Saudi Arabia, Qatar, Switzerland, and the United Kingdom, and the largest single transaction reported for this reporting period is a multi-year contract with China for \$353.71 million.⁶

⁵ As of February 2025, 7 of the 19 investigations are still open, including 2 that were initiated in 2019.

⁶ [Foreign Gift and Contract Data Reported by Institutions-February 2024](#).

Finding. FSA's Oversight of Institutions' Reporting of Foreign Gifts and Contracts Needs Improvement

We found that FSA's oversight of institutions' reporting of foreign gifts and contracts under Section 117 needs improvement. Specifically, FSA's current oversight activities are limited to reviewing whistleblower tips, Department news bulletins, and other media reports for potential institutional noncompliance with Section 117 and providing technical assistance to institutions. FSA does not have any monitoring plans, policies, or procedures in place for its oversight of Section 117 reporting. Additionally, we found that FSA is accurately posting the data it receives from institutions through its Section 117 reporting portal onto its public-facing website; however, FSA could improve its Section 117 reporting portal to assist in identifying and reducing data input errors.

Current Oversight Activities Are Limited

FSA's current oversight activities are generally limited to reviewing whistleblower tips, Department news bulletins, and other media reports for potential institutional noncompliance with Section 117. Principle 10.02 of the Government Accountability Office's *Standards for Internal Control in the Federal Government* states that "[m]anagement designs control activities in response to the entity's objectives ... to achieve an effective internal control system. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives."

In April 2024, the Director of the Clery Group (Director) stated that the Clery Group is monitoring the media for potential Section 117 issues through reviews of news bulletins and articles. The Director stated that FSA has opened one inquiry into an institution based on media reports alleging unreported financial relationships between the institution and a foreign source. The Director noted that there has also been an instance where FSA has received a tip to investigate an institution and that FSA is currently looking at that information.

FSA also provides technical assistance to institutions. This includes issuing electronic announcements to institutions before each reporting deadline, reminding recipients of the reporting criteria, the due date, and how and where to submit the report. FSA has also established two email accounts, one for institutions to send technical questions and one for institutions to send questions on the interpretation of the law for reporting purposes.

FSA and OGC have also prepared a Frequently Asked Questions (FAQ) document and a webinar providing institutions with reporting guidance (both the FAQs and webinar are

also posted to FSA's Knowledge Center website). The FAQs include categories covering different topics, such as foreign sources, gift and contract reporting details, types of gifts and contracts, reporting portal, and other guidance. The FAQs include more than 30 questions, many of which include hypothetical scenarios to help institutions to comply with the requirements.

Monitoring Plan, Policies and Procedures are Still Being Developed

We found that FSA does not have a monitoring plan, policies, or procedures in place related to its oversight of Section 117 reporting. FSA is currently involved in efforts that will assist in developing a monitoring plan, policies, and procedures. These efforts include reviewing prior OGC oversight activities, applying data analysis and technological tools, and advocating for the addition of Section 117 testing as a potential area of focus in annual institutional audits. FSA is also assessing the possibility of including Section 117 in its program review guide. Principle 10.01 of the Government Accountability Office's *Standards for Internal Control in the Federal Government* states that "[m]anagement should design control activities to achieve objectives and respond to risks," and Principle 12.01 states that "[m]anagement should implement control activities through policies." Overview Section 2.16 also states that management sets objectives to meet the requirements of applicable laws and regulations.

Review of Prior Oversight Activities

In April 2024, the Director stated that FSA was gathering information from OGC to develop a risk-based approach to compliance monitoring. The Director explained that when FSA took over from OGC, OGC did not have anything written that FSA could use as a monitoring policy.⁷ The Director noted that FSA is thinking about how it can use what OGC has done and the insights OGC obtained during its compliance investigations to develop a more consistent compliance program with more structured policies and procedures, but that they are building them from the ground up. The Director noted that the development of a first draft of FSA's monitoring policies and procedures was anticipated during fiscal year 2024. In December 2024, the Director stated that a draft of the policies and procedures has been developed but is not yet finalized.

Data Analysis and Technological Tools

In April 2024, the Director stated that the Clery Group has started to analyze the Section 117 data in order to develop a data monitoring tool that will help FSA identify when to reach out to institutions about possible noncompliance. In July 2024, the

⁷ OGC confirmed that it did not have any written monitoring policies for Section 117 oversight.

Director noted that possible inputs for the data monitoring tool could include an institutional profile, incidences of withdrawn transactions,⁸ fluctuations in or order of magnitude of reporting, duplicate submissions, and obvious errors.

The Director also noted that as of August 2024, FSA is in the process of developing a model to predict which institutions may have gifts or contracts from foreign entities to report. FSA anticipates that the model will identify institutions that have not reported Section 117 data, but possibly should have. FSA intends to communicate with these institutions regarding their compliance with Section 117 reporting requirements.

Annual Institutional Audits

A significant part of FSA's monitoring plans includes testing institutions' compliance with Section 117 reporting requirements via annual compliance audits performed by auditors external to the Department. In April 2024, the Director noted that what would be included in FSA's monitoring policies and procedures moving forward would depend on whether Section 117 testing was included in such audits. The Director added that inclusion of Section 117 in external audits would assist FSA in identifying patterns of non-compliance that could be important in developing a risk-based approach to compliance monitoring. However, in May 2024, the Office of Management and Budget (OMB) did not approve the testing of Section 117 compliance in its guide for annual compliance audits of public and non-profit institutions. The Director stated that FSA intends to continue to advocate for OMB to include Section 117 testing in the annual compliance audit guide for fiscal year 2025.⁹ In addition, the Director noted that FSA plans to begin discussions with the Department's Office of Inspector General (OIG) to include steps in the guide for annual compliance audits of proprietary institutions that

⁸ Institutions can ask FSA to delete Section 117 data submissions that the institution had previously submitted in FSA's reporting portal if an institution finds it needs to make corrections or changes. Institutions resubmit corrected information in an entirely new submission or FSA deletes applicable transactions, as identified by the institutions, from the reporting portal.

⁹ Subsequent to the completion of our fieldwork, FSA removed Section 117 testing from the proposed fiscal year 2025 audit guide at OMB's direction. OMB recommended that the Department use alternative oversight to ensure the appropriate monitoring of the Section 117 requirements due to concerns with the scope and amount of review the compliance audits could provide. FSA noted that it intends to continue to recommend to OMB to include Section 117 testing in the annual compliance supplement and believes that it has established that it is appropriate for it to be included in the compliance supplement.

would require independent auditors to assess compliance with Section 117 requirements.

We noted challenges that may impact FSA’s ability to effectively use annual institutional audits as part of its monitoring activities. Specifically, we noted concerns expressed by the external audit community over the inclusion of Section 117 testing in OMB’s guide for annual compliance audits of public and non-profit institutions. The external audit community questioned how Section 117 requirements could have a direct and material effect on an institution’s Title IV programs, which is a condition that compliance requirements must meet in order to be included in the guide. The audit community also raised concerns about possible scope limitations and modified audit opinions due to their potential inability to obtain a complete and accurate population of foreign gifts or contracts for testing as well as the additional costs of the testing being shifted to other grants, taxpayers, or directly to students since only a small amount of Title IV funds are provided to institutions to help offset the cost of administering the FSA programs.

Regarding the guide for annual compliance audits of proprietary institutions developed by OIG, we note that it has been the OIG’s practice to include compliance requirements that are newly subject to audit only after they have been approved for inclusion in OMB’s guide for annual compliance audits of public and non-profit institutions since OMB has a well-established process for adjudicating comments from the external audit community. If OMB approves including Section 117 testing in its annual audit guide in future years, inclusion of the testing would indicate that Section 117 requirements are subject to audit for the Student Financial Assistance programs. However, even if Section 117 requirements were to be included in OMB’s guide for annual compliance audits of public and non-profit institutions, not all eligible public and nonprofit institutions would be subject to Section 117 testing.¹⁰

Oversight Challenges and Opportunities

The Director noted that it is difficult to determine if an institution is not reporting as required because Section 117 reporting relies on an institution being transparent and

¹⁰ Due to the auditing requirements and guidance that apply to annual compliance audits of public and non-profit institutions, an institution’s Section 117 reporting may not be audited for the following reasons: (1) the institution does not meet the threshold for single audit (revised from \$750,000 to \$1,000,000 in total federal expenditures during the fiscal year, for fiscal years beginning on or after October 1, 2024), (2) the Student Financial Assistance cluster of programs was not selected for review for the audited entity’s fiscal year, (3) Section 117 reporting requirements were deemed not direct and material to the audited entity’s Student Financial Assistance cluster of programs, or (4) the institution is part of a larger audited entity and was not included by the auditor for audit evaluation and testing.

forthcoming. An OGC official noted that the Department does not have the capability to investigate whether there is Section 117 compliance at every institution. The official added that the Department would need a forensic accountant at every institution to determine the population of all foreign gifts and contracts, and that the best the Department can do is try to instill in institutions the importance of being as transparent as possible. The Director and a staff member of the Clery Group both stated that it is ultimately an institution's responsibility to ensure the accuracy and completeness of its foreign gift and contract information. The Director stated that FSA's strongest effort to ensure accuracy and completeness of Section 117 reporting is through technical assistance to institutions.

We noted that OGC did obtain Internal Revenue Service (IRS) financial data forms¹¹ for a few of the institutions that OGC investigated and compared them to what was reported. An OGC official stated that there was a tremendous amount of inconsistency between what institutions were reporting under Section 117 and what was being reported on IRS forms. When asked about the potential for FSA to cross-reference institutional financial data maintained by other Federal agencies such as the IRS for the purposes of Section 117 monitoring, the Director noted that the Clery Group is open to such cross-referencing but that such a process has not been developed.

FSA does not request a certification on the accuracy and completeness of Section 117 reporting from all institutions during each reporting period. Requesting that institutions provide a certification on the accuracy and completeness of its Section 117 reporting, or that it has no applicable activities to report, could be a tool to help ensure institutional compliance with Section 117. FSA could also publicly post which institutions did not submit the requested certification or attestation each reporting period, which could motivate institutions to comply with the requirements and serve as a potential risk indicator for FSA's oversight efforts. An OGC official stated that it is important for the Department to have a footprint for monitoring to help ensure compliance as best as possible and that the ideal solution to monitoring is to have a requirement that the chief financial officers and the presidents of institutions verify and attest to the accuracy of the Section 117 information that is submitted to the Department. An FSA official added that if an institution had to certify that it did or did not have Section 117 data to report and that its reporting was accurate, then FSA's monitoring would have a better and more efficient focus, as non-reporters or seemingly low reporters could become the main focus of monitoring efforts. The official noted that a certification from a top-level

¹¹ IRS Form 990 is an informational tax form that most tax-exempt organizations file annually. It requires the reporting of activities outside of the United States and foreign investments valued at \$100,000 or more.

institution official would help to make sure that a top-level official is cognizant of the importance of accurate Section 117 reporting.¹²

Public Posting of Reported Data is Accurate

We found that FSA is accurately posting the data it receives from institutions through its Section 117 reporting portal to its public-facing website, in accordance with the statutory requirement that all disclosure reports shall be public records. While we found that FSA is accurately posting the data it receives from institutions, FSA could improve its Section 117 reporting portal to assist in reducing data input errors.

We found that FSA's process for posting data from the reporting portal to its public-facing website is labor-intensive and time-consuming but results in the accurate publication of the data as reported by the institutions in the reporting portal. FSA's process consists of the Clery Group's Data Integrity and Systems Coordinator (Coordinator) requesting the raw data from the Section 117 reporting portal maintained by FSA's Application Development Group, manually transitioning the raw data into a format that can be edited, and then formatting the data for public posting. During this process, the Coordinator performs data checks to ensure that any withdrawn Section 117 submissions are not included and that personally identifiable information, such as names and addresses for gifts and contracts from individuals, collected from institutions is not posted. In addition to the process performed by FSA, OGC uses an automated process to perform these same steps and the results from each process are compared. The Director stated that this process of multiple checks of the data is important to ensure that the data is reliable when published, given the highly manual nature of FSA's process. The Director explained that OGC has agreed to continue to provide its review of the data as a courtesy to FSA. The Director stated that although there may be some redundancy as a result of OGC's review, it does not delay publication significantly.

In addition to the contents of the public disclosure report expressly required by statute, FSA is also collecting the name and address of foreign sources as part of its OMB-approved information collection. An OGC official explained that collecting the names and addresses for each transaction enables the Department to assess whether institutions are complying with both the foreign source aggregation and disaggregation reporting requirements. The official also noted that collecting this information and sharing it with Federal partners helps to ensure that counterintelligence and national

¹² We noted that the Department uses management certifications attesting to the accuracy and reliability of data reported to the Department in other programs—ED/OIG A06O0001, "[Management Certifications of Data Reliability](#)," February 11, 2016.

security agencies have vital information to do their work effectively and to better prioritize the agencies' engagement with institutions.

Further, we noted that in June 2024, the Department decommissioned an interactive search and filter function from FSA's public-facing Section 117 data website. The Director stated that all of the data from the interactive data table was migrated to FSA's Knowledge Center webpage and all of the public Section 117 data will be available solely on the Knowledge Center.¹³ The Director explained that the public can perform any analysis in the Excel spreadsheets on the Knowledge Center that was previously possible with the interactive data table. They further explained that the Excel spreadsheets do not have some of the interactive data table's limitations, likely making them less confusing and more user-friendly. Additionally, the Director noted that while the interactive data table did not include data reported before the adoption of the new reporting portal in June 2020, the Excel spreadsheets do include this data.

Improvements Could be Made to Reporting Portal

During our review of the reported data, we noted that the reporting portal allowed institutions to erroneously report that they had restricted or conditional gifts or contracts¹⁴ when they, in fact, did not, and it allowed institutions to report restricted gifts and contracts without providing a description of those gifts and contracts, as required.¹⁵ For the latest reporting period deadline during our fieldwork (January 31,

¹³ We confirmed that all of the data from the interactive data table was migrated to FSA's Knowledge Center website page.

¹⁴ The term "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—(A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

¹⁵ Section 117 states that "whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following: (1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity. (2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government."

2024), we found 617 blank descriptions for gifts and contracts that were noted as restricted by institutions. Upon further review, the Director stated that in almost 98 percent of those cases, after the institution checked that the gift or contract was restricted in the reporting portal, it then checked “no” for each of the questions that determine whether a gift or contract is restricted as defined by the statute. The Director stated that FSA found 13 instances out of the 617 identified by OIG where the applicable institution checked “yes” to one of those questions and was allowed by the reporting portal to proceed without including a description of the gift or contract. The Director explained that, in light of this issue, FSA is reviewing these instances to understand why the system allowed a submission without a corresponding description.

We also found institutions that may have included duplicate submissions of gifts or contracts. We noted submissions that all originate from the same foreign source, involve the same type of transaction, are for the same exact amount, and are made on the same day. In some cases, there were more than 40 submissions from an institution that all have these same metrics, but that have different IDs from FSA’s reporting portal, showing that institutions did submit this information multiple times through multiple entries. When asked if FSA is conducting any analysis or follow-up with institutions to ensure these are not duplicate submissions made in error, the Director explained that this is one of the factors being considered while developing a risk-based approach to Section 117 compliance monitoring. The Director added that because the current reporting system requires a significant amount of work by the institution to make each individual submission, FSA believes it unlikely that an institution is making these submissions unintentionally.

Further, we found that FSA’s reporting portal allowed for confusion when reporting the country of attribution. For example, multiple FSA staff explained that there were multiple institutions that selected “Korea, Democratic People’s Republic of” (*i.e.*, North Korea) rather than the normally selected country of South Korea, in response to the “country of attribution” questions, thereby potentially failing to identify the proper foreign country to which the reportable transaction was attributable. The Director of the Clery Group stated that (due to the possible confusion caused by the formal name) FSA has needed to go back to applicable schools to clarify and ask them to resubmit the applicable transactions (if necessary).

Reasons for Limited Oversight Activities

We determined that FSA has not added any additional resources to the group newly charged with the oversight and monitoring of institutional compliance with Section 117 reporting requirements and was planning to rely heavily on the external audit community to provide audit coverage of Section 117 reporting by public and nonprofit institutions. Shortly after FSA resumed the lead oversight responsibility from OGC, the

Department noted in a letter to Congress that it remains committed to ensuring robust compliance with Section 117 and continues to devote substantial resources towards that compliance. However, FSA assigned the responsibility for oversight to the Clery Group, which had no prior experience in this area and already had responsibilities for overseeing various campus safety requirements including the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Drug-Free Schools and Communities Act. FSA did not provide this group with any additional resources to take on these new oversight responsibilities. As of April 2024, the Director noted that the current staffing of the Clery Group was 12 people, including the Director. We found that most Section 117 responsibilities have been limited to two staff within the Clery Group, one of which is the Director.

A senior advisor to the former FSA chief operating officer explained that there are many competing priorities, and some get more resources than others. The senior advisor stated that it is not that FSA does not care to do monitoring of Section 117, it just has limited bandwidth and resource challenges that need to be worked through. The senior advisor explained that FSA opted to give the Clery Group this responsibility since it has done data collection and some types of compliance investigations in the past, even though the Clery Group's campus safety responsibilities are different from Section 117 oversight activities. The senior advisor acknowledged that this has been a significant increase in workload for a small number of staff.

The Director explained that FSA would not be able to perform the kinds of investigations OGC had without the level of resources that OGC had at its disposal. OGC officials noted that OGC had eight staff working on Section 117 compliance investigations until January 2021. An OGC official explained that most of its compliance investigations involve a large amount of records that need to be reviewed, the reviews entail a number of communications and information-sharing between the Department and the school and may involve updates to school policies and Section 117 reports, all of which can take time and resources. The official recognized that the compliance investigations were going to be too resource intensive for the Clery Group to maintain as an established and permanent monitoring tool.

The Director stated that the Clery Group is working to develop a monitoring plan as quickly as possible consistent with its span of control while being cognizant that the Department's senior leadership has responsibility for setting the priorities of FSA and the agency and for making decisions concerning the allocation of resources.

Section 117 is an important transparency requirement to help raise awareness of potential foreign influence on college campuses. If FSA does not have effective controls in place to help ensure institutional compliance with Section 117, executive branch agencies, policymakers, and the public will not have complete and accurate information

on foreign funding being provided to U.S. postsecondary institutions. Complete and accurate information in this area could help stakeholders assess, detect, and respond to potential threats to or inappropriate foreign influence on U.S. academic and research pursuits, free speech on campuses, and national security.

Without established policies, procedures, and plans to monitor institutional reporting activities, FSA faces challenges in detecting inaccuracies, incomplete submissions, or instances of non-reporting. This oversight deficiency hinders FSA's ability to ensure that institutions comply with Section 117 reporting requirements effectively. Implementing such measures would also encourage institutions to adhere to these requirements.

Recommendations

We recommend the FSA Chief Operating Officer—

- 1.1 Assess FSA's planned resourcing to ensure institutional compliance with Section 117 reporting requirements and make changes, as appropriate.
- 1.2 Develop and implement a monitoring plan, policies, and procedures, along with a related timeframe for doing so, that includes a risk-based framework and activities designed to assist with detecting inaccuracies, incomplete submissions, or instances of non-reporting and that motivates institutions to comply with the requirements of Section 117.
- 1.3 Require an annual certification, to cover the preceding year, from a high-level official at all institutions receiving Title IV funds certifying full compliance with Section 117 reporting requirements.
- 1.4 Include edit checks in the Department's Section 117 reporting portal system or implement other data monitoring processes that would ensure: (1) institutions are properly classifying gifts and contracts as restricted based on answers to related questions, (2) all restricted gifts and contracts include required descriptions, and (3) potential duplicate entries are flagged for further review.
- 1.5 Ensure that the portal includes adequate descriptors of country names for those that may be confusing (e.g., North Korea).
- 1.6 Develop a more efficient process for preparing data for posting on the website.

FSA Comments

FSA agreed with our conclusions and agreed with all of our recommendations with the exception of Recommendation 1.3, for which it partially agreed. FSA noted that it has implemented or is in the process of implementing actions to address five of the recommendations.

FSA agreed that there are additional processes to implement to maximize its oversight capabilities consistent with the applicable law. FSA stated it is unclear whether OIG's analysis assessed the difficulties in monitoring and addressing Section 117 compliance based on the actual language of the statute, which imposes a broad reporting mandate and provides limited enforcement tools.

For Recommendation 1.1, FSA stated that it has established a team to focus solely on Section 117 requirements and will identify or seek funding to support Section 117 program staffing requirements. For Recommendation 1.2, FSA noted that policies and procedures are in draft and will be implemented following internal review and approval. Risk models have also been developed.

Regarding Recommendation 1.3, FSA noted that it agrees in part with this recommendation and provided suggested edits to the recommendation. FSA agreed that requiring a certification from institutions, including those with nothing to report in a given year, could be a tool to help ensure better institutional compliance with Section 117. FSA disagreed with the draft recommendation's provision on frequency and required content of the certification. Specifically, FSA recommended against imposing an additional certification requirement at each reporting cycle, given that the \$250,000 reporting threshold is based on a calendar year. FSA noted that it would be more appropriate to require a certification on an annual basis, at the January 31 reporting deadline, and recommended that the certification be structured as an assurance of compliance for the preceding calendar year. Additionally, FSA stated it already requires institutions to acknowledge the accuracy of its reporting through the Section 117 reporting portal system prior to submission. Further, FSA noted that because the statutory text does not currently require institutions to attest or certify that they have nothing to report, the Department would need to undertake substantive rulemaking subject to applicable notice and comment requirements of the Administrative Procedure Act. Any rulemaking that would seek to impose conditions on Title IV participation would be subject to negotiated rulemaking requirements and the Department cannot commit to a particular outcome if it were to undertake a rulemaking process related to this recommendation.

Regarding Recommendation 1.4, FSA agreed with the substance of this recommendation and stated that it has taken steps to improve its system to ensure institutions are properly classifying gifts and contracts as restricted. FSA stated that while potential duplicate entries are not automatically flagged in the reporting portal, its policies and procedures will require that the exported data be reviewed for duplicate entries and questions raised with institutions as appropriate.

For Recommendation 1.5, FSA stated that it will explore options to address country names that it can determine are confusing. For Recommendation 1.6, FSA noted it is

reviewing options for preparing data for posting on its website, including automating the data analysis to reduce processing time.

OIG Response

This report describes Section 117 requirements, enforcement mechanisms, and the challenges FSA faces in monitoring compliance. FSA's proposed corrective actions, if implemented as described, are responsive to our recommendations. FSA did not propose specific corrective actions for Recommendation 1.3 beyond exploring options for certifications. FSA also suggested edits to the recommendation. Requiring a certification from institutions, including those with nothing to report in a given year, is an oversight tool to help ensure institutional compliance with Section 117. With regard to rulemaking needed to require certifications from institutions that have nothing to report, we noted that the Department had planned to propose regulations for Section 117 as posted in its Fall 2024 Unified Agenda of Regulatory and Deregulatory Actions. We made minor changes to the body of the report and minor revisions to Recommendations 1.3 and 1.4 based on the comments received and addressed technical comments provided separately by FSA as deemed appropriate.

Appendix A. Scope and Methodology

To answer our objective, we reviewed the laws and guidance related to institutional reporting of foreign gifts and contracts under Section 117. We also reviewed prior Government Accountability Office, Department, and other Federal agency reports related to our objective. We held discussions with FSA and OGC officials and staff to gain an understanding of the Department’s current and historical processes for overseeing institutional reporting of foreign gifts and contracts under Section 117. We reviewed FSA’s current monitoring activities and technical assistance provided to institutions and its current monitoring plan, policies, and procedures related to its oversight of institutional reporting under Section 117. Lastly, we reviewed Section 117 data reported by institutions and Section 117 data publicly reported by FSA to determine if FSA is accurately posting the data it receives from institutions.

We conducted fieldwork for this inspection from March 2024 through September 2024. We provided the results of our inspection to Department officials during an exit conference held on September 18, 2024.

Use of Computer-Processed Data

We relied upon computer-processed data from FSA’s Section 117 reporting portal to identify the population of raw institution-reported Section 117 data. As this was the only database available to identify this population, we considered it to be the best available data for the purposes of our inspection. We also relied upon computer-processed data from FSA’s Section 117 website to identify the population of FSA-published Section 117 data. We compared the data from both sources to determine if FSA is accurately publicly posting the data that institutions report. We concluded that the computer-processed data were sufficiently reliable for the purposes of our inspection.

Compliance with Standards

We conducted our work in accordance with the Council of the Inspectors General on Integrity and Efficiency “Quality Standards for Inspection and Evaluation.” Those standards require that we plan and perform our work to obtain sufficient and appropriate evidence to support our findings and provide a reasonable basis for our conclusions. We believe that the evidence obtained provides a reasonable basis for our conclusions.

Appendix B. Acronyms and Abbreviations

CFR	Code of Federal Regulation
Coordinator	Data Integrity and Systems Coordinator
Department	U.S. Department of Education
Director	Director of the Clery Group
FAQ	Frequently Asked Question
FR	Federal Register
FSA	Federal Student Aid
institution	institution of higher education
IRS	Internal Revenue Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
PPA	Program Participation Agreement
Secretary	Secretary of Education
Section 117	Section 117 of the Higher Education Act, as amended

FSA Comments



January 17, 2025

TO: Michele Weaver-Dugan
Director, Internal Operations Oversight Team
Office of Inspector General
U.S. Department of Education

Mr. Jeffrey Nekrasz
Director, Student Financial Assistance Advisory and Assistance
Office of Inspector General
U.S. Department of Education

FROM: Margaret Glick
Deputy Chief Operating Officer
Partner Participation and Oversight
Federal Student Aid

MARGARET
GLICK

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MARGARET GLICK
Date: 2025.01.18 18:35:16
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SUBJECT: Draft Inspection Report, “FSA’s Oversight of Section 117 Reporting Requirements”, Control Number ED-OIG/I24DC0166

Dear Ms. Weaver-Dugan:

Thank you for the opportunity to review and comment on the statements and recommendations made in the Office of Inspector General (“OIG”) Draft Inspection Report, *FSA’s Oversight of Section 117 Reporting Requirements* (I24DC0166), dated January 2, 2025.

The purpose of the inspection was twofold: (1) To evaluate Federal Student Aid’s (FSA) oversight of institutions’ reporting of foreign gifts and contracts under Section 117 and (2) to determine if FSA was accurately posting the data it receives from institutions.

As to the OIG’s second purpose, FSA agrees with the OIG’s conclusion that FSA is accurately posting the data it receives from institutions through its Section 117 reporting portal onto its public-facing website. FSA takes great care to ensure that the posted data is consistent with the information provided by institutions and appreciates the OIG’s recognition of this.

As to the OIG’s conclusion that FSA’s oversight of institutions’ reporting of foreign gifts and contracts under Section 117 needs improvement, FSA agrees that there are additional processes to implement to maximize its oversight capabilities consistent with the applicable law. However,

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

830 First Street, NE, Washington, DC 20202
StudentAid.gov

although all the steps taken by FSA in furtherance of its oversight responsibilities were not included in specific written policies and procedures at the time of the OIG's site work, FSA was nonetheless following specific steps to review the data as it was filed in the reporting portal to identify obvious concerns. Furthermore, it is unclear whether OIG's analysis assessed the difficulties in monitoring and addressing Section 117 compliance based on the actual language of the statute, which imposes a broad reporting mandate and provides limited enforcement tools.

On the following pages, FSA responds to the OIG's recommendations. Specifically, FSA agrees, at least partially, with the six recommendations. In fact, FSA has implemented or is in the process of implementing five of the recommendations.

Finding: FSA's Oversight of Institutions' Reporting of Foreign Gifts and Contracts Needs Improvement

Recommendation 1.1:

Assess FSA's planned resourcing to ensure institutional compliance with Section 117 reporting requirements and make changes, as appropriate.

FSA's Response to Recommendation 1.1: FSA agrees with this recommendation and has established a team to focus solely on Section 117 requirements. FSA will identify or seek funding to support Section 117 program staffing requirements.

Recommendation 1.2:

Develop and implement a monitoring plan, policies, and procedures, along with a related timeframe for doing so, that includes a risk-based framework and activities designed to assist with detecting inaccuracies, incomplete submissions, or instances of non-reporting and that motivates institutions to comply with the requirements of Section 117.

FSA's Response to Recommendation 1.2: FSA agrees with this recommendation. Policies and procedures are in draft and will be implemented following internal review and approval. Risk models have been developed and are being iteratively enhanced.

Recommendation 1.3:

Require, for each reporting period, that a high-level official at all institutions receiving Title IV funds certify that the institution is fully compliant with Section 117 reporting requirements. This certification must indicate either that the institution (1) has nothing to report or (2) has fully and accurately reported all foreign gift and contract information in the Department's reporting portal.

FSA's Response to Recommendation 1.3: FSA agrees in part and disagrees in part with this recommendation.

FSA agrees that requiring a certification from statutorily defined institutions, including those with nothing to report in a given year, could be a tool to help ensure better institutional compliance with Section 117. This approach should be explored, along with other options, but it is helpful to consider this with additional context. Thus, for the reasons discussed below, this recommendation should be reworded to read as follows:

FSA should consider requiring an annual (to cover the preceding year) certification from a high-level official at all institutions receiving Title IV funds certifying full compliance with Section 117 reporting requirements.

With respect to accuracy, FSA already requires submitting institutions to respond “Yes” to the following acknowledgment prior to submitting each disclosure through the Section 117 reporting portal system:

I am aware that this information collection is subject to 18 U.S.C. § 1001, which provides that whoever knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, may be subject to fines and imprisonment.

FSA disagrees with the draft recommendation’s provision on frequency and required content of the certification. FSA recommends against imposing an additional certification requirement at each reporting cycle. Given that the \$250,000 reporting threshold is based on a calendar year, FSA believes that it would be more appropriate to require a certification on an annual basis at the January 31 reporting deadline, which corresponds to the preceding calendar year, as opposed to requiring a certification for both the January 31 and July 31 reporting deadlines.

As far as the content of the certification, FSA recommends that the certification be structured as an assurance of compliance for the preceding calendar year. The draft report cites to the use of certifications by the Department of Education (Department) in other contexts as supportive of the draft recommendation. However, those other contexts are distinguishable from the proposed certification requirement. Specifically, Footnote 12 (p. 9) notes that the Department uses management certifications attesting to the accuracy and reliability of data in contexts where recipients were already required to submit information to the Department. Those certifications did not require recipients to attest to a negative (i.e., that they have nothing to report). The Department recommends deletion of the second sentence of Recommendation 1.3 to provide greater flexibility in implementing a certification requirement and believes it is sufficient to require an annual assurance of compliance with the statute.

Further, the statutory text does not currently require institutions to attest or certify that they have nothing to report. By statute, Section 117 requires institutions to file a disclosure report with the Department whenever one of the following conditions occur within a calendar year:

- An institution receives a gift or gifts of money or property from a foreign source that meets or exceeds the \$250,000 reporting threshold;
- An institution enters into a contract or contracts with a foreign source that meets or exceeds the \$250,000 reporting threshold;
- An institution receives and enters into a combination of gifts and contracts that meets or exceeds the \$250,000 reporting threshold; or
- A foreign source obtains ownership or control of an institution, or there is a substantive change to a previously reported ownership or control status.

Accordingly, to implement this recommendation, the Department would need to undertake substantive rulemaking subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* Further, any future rulemaking on this topic that would seek to impose conditions on participation in title IV programs would be subject to the negotiated rulemaking requirement in section 492 of the HEA, 20 U.S.C. 1098a. At this time, the Department cannot commit to a particular outcome if it were to undertake a rulemaking process.

Recommendation 1.4:

Include edit checks in the Department’s Section 117 reporting portal system that would ensure: (1) institutions are properly classifying gifts and contracts as restricted based on answers to related questions, (2) all restricted gifts and contracts include required descriptions, and (3) potential duplicate entries are flagged for further review.

FSA’s Response to Recommendation 1.4: FSA agrees with the substance of this recommendation, although the process for flagging potential duplicate entries is not included in the reporting portal. FSA has taken steps to improve its system to ensure institutions are properly classifying gifts and contracts as restricted. Specifically, in December 2024, the business rules for the reporting portal were revised. The following four questions determine whether a gift or contract is restricted as defined by the statute:

- Do the restrictions or conditions concern or relate to the employment, assignment, or termination of faculty?
- Do the restrictions or conditions concern or relate to the establishment of departments, centers, research or lecture programs, or new faculty positions?
- Do the restrictions or conditions concern or relate to the selection or admission of students?
- Do the restrictions or conditions concern or relate to the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion?

We have updated the portal logic to require that institutions intending to report a restricted or conditional gift or contract respond “Yes” to at least one of these questions when answering questions about restricted or conditional gifts or contracts. If submitters answer “No” to all questions, they receive an alert via a separate dialogue box telling them they do not have a restricted or conditional gift or contract under the terms of the statute and they need to report the gift or contract under the

appropriate section. Submitters must hit “OK” to close the dialogue box. In addition, submitters receive a warning restating the information contained in the dialogue box. Also, there is now a system change requiring a detailed description. Submitters are not allowed to continue with the submission if the description field is not completed.

As to potential duplicate entries, those are not automatically flagged in the reporting portal. However, the policies and procedures will require that the exported data be reviewed for duplicate entries and questions raised with institutions as appropriate.

Recommendation 1.5:

Ensure that the portal includes adequate descriptors of country names for those that may be confusing (e.g., North Korea).

FSA’s Response to Recommendation 1.5: FSA agrees with this recommendation. FSA takes care to ensure that a complete and inclusive list of foreign sources is included in the reporting portal, as the list is developed with reference to the [U.S. Department of State Countries and Areas List](#). FSA will explore additional options to address country names that we can determine are confusing to the field.

Recommendation 1.6:

Develop a more efficient process for preparing data for posting on the website.

FSA’s Response to Recommendation 1.6: FSA agrees with this recommendation. FSA is continuing to review the options for preparing data for posting on the website, including automating the data analysis to reduce processing time.

Thank you for the opportunity to respond to the recommendations outlined in this OIG draft report. We appreciate the time and the effort expended by the OIG in auditing this issue, as well as the opportunity to comment.