



July 27, 2018

Dear President,

Over the past several months, we have seen a renewed interest and heightened concern from Congress and the federal national security agencies in academic partnerships and programs between U.S. institutions of higher education and China. These concerns are bipartisan in nature and focus on China's aggressive plan to surpass the United States technologically and economically. Confucius Institutes (CIs) are a small but very visible part of this discussion. Because you have a CI, I write to alert you to these concerns and encourage you to proactively take steps to assess your program.

This does not represent an attack on international students and the many important ways they contribute to our campuses. Indeed, many members of Congress and federal officials who have expressed concerns have also taken pains to express support for international students traveling to the United States to study at our colleges and universities. For example, at a recent hearing, Senate Judiciary Subcommittee on Border Security and Immigration Chairman John Cornyn (R-TX) noted the importance of international students to U.S. higher education and the enormous benefit of the sharing of ideas and cultures.<sup>1</sup> However, he emphasized that the national security risks and the theft of intellectual property at U.S. universities are serious concerns. These concerns were echoed earlier this spring by members on both sides of the aisle at a similar hearing held by the House Committee on Science, Space, & Technology.<sup>2</sup> Additionally, leadership from the Federal Bureau of Investigations (FBI) has also raised similar concerns in recent meetings with ACE and other higher education associations and leadership in Washington, DC.

Federal policymakers have focused on the need to enhance security of research with national and economic security implications, as well as to closely examine and increase transparency around Chinese talent recruitment programs and research partnerships with China and Chinese companies such as Huawei. Given the heightened concerns over the potential loss of valuable and sensitive technology to China, you should anticipate

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<sup>1</sup> June 6, 2018, Senate Committee on the Judiciary, Subcommittee on Border Security and Immigration hearing on "Student Visa Integrity: Protecting Educational Opportunity and National Security" <https://www.judiciary.senate.gov/meetings/a-thousand-talents-chinas-campaign-to-infiltrate-and-exploit-us-academia>

<sup>2</sup> April 11, 2018, House Committee on Science, Space, & Technology, Subcommittee on Oversight and Subcommittee on Research and Technology hearing on "Scholars or Spies: Foreign Plots Targeting America's Research and Development" <https://science.house.gov/legislation/hearings/subcommittee-oversight-and-subcommittee-research-and-technology-hearing>

that many forms of engagement with China may attract additional scrutiny. This is especially true of CIs, since they are funded by a branch of the Chinese government.

Legislative proposals introduced in the last few months include requiring colleges and universities who operate a CI or receive other funding from foreign governments to register under the Foreign Agents Registration Act; requiring the Director of the National Institutes of Health (NIH) to provide Congress with a list of CIs that have received NIH funding; and asking the Secretary of Education to provide Congress with a list of institutions with CIs that report to the Department of Education. None of the proposals have yet become law, but this gives you an idea of the range and level of concerns.

Given the importance of CIs in this environment, we have prepared the recommendations below. Several will require modifications to your written agreements with the Chinese government (Hanban). The recommendations should be reviewed in consultation with your General Counsel and Senior International Officer.

1. All written agreements, including Memorandums of Understanding, between your institution and the Hanban should be publicly available. I understand some institutions keep grant and gift agreements confidential as a matter of policy. However, a continuing theme in the criticism of CIs is the lack of transparency surrounding these partnerships.
2. Require that all CI activities be in full compliance with your campus's policies on academic freedom. Your agreements should give you clean authority to withdraw from the agreement if the partnership impinges on academic freedom.
3. Make publicly available an annual statement of income and expenses that clearly identifies the amount of funding from the Hanban.
4. Written agreements should affirm the primacy of U.S. law and your institution's written policies over Chinese law for all CI activities taking place in the United States.
5. Ensure that the U.S. director of your CI is accountable to a senior official on your campus.
6. Make publicly clear and explicit that exchange visitors who are part of your CI will not have any decision-making authority on your campus.
7. Confirm your management structure (and written agreements, as needed) to ensure that any CI governing board is limited to an advisory capacity.
8. Ensure that all courses under your CI, both credit and non-credit, are under the full control of an academic department or other appropriate unit.

9. Complete a comprehensive evaluation of your CI using a team of academically qualified external reviewers. The evaluation should include but not be limited to a determination of whether the activities of your CI are in full compliance with your institution's policies on academic freedom.
10. Identify key audiences, including elected federal officials, and communicate the results of your comprehensive evaluation and any changes to policy. Provide evidence to document the positive impact of your CI, including the number of students benefitting from its activities.

In addition to the CIs, in light of the larger concerns regarding economic and national security, it is also important for all campuses to ensure that the relevant officials at your institution have a working relationship with the local FBI field office. At a recent meeting with campus representatives, the FBI Director of Counterintelligence encouraged universities to identify vital assets on your campus (faculty and students, areas of research, lab facilities, etc.) and take steps, if necessary, to protect those assets; create written rules of engagement with foreign governments, companies, or other actors about what is allowed and not allowed in the research setting (what can be shared outside the building, etc.); and inform researchers of the threat if they are a vital asset and of the need to be particularly vigilant while traveling abroad. The FBI has made clear they are anxious to have a collaborative relationship that protects national and economic security without impinging on academic freedom or institutional autonomy.

I know from talking to campus presidents that international engagement, including programs such as the CIs, enriches the academic and campus life of our institutions and that many of our CIs are working to appropriately address these issues. The major higher education associations are aware of and are working closely on these issues. We believe the best way to address these concerns is for individual institutions to address them directly. My staff including Brad Farnsworth, vice president, Center for Internationalization and Global Engagement ([bfarnsworth@acenet.edu](mailto:bfarnsworth@acenet.edu)), and Sarah Spreitzer, director, Government Relations ([saspreitzer@acenet.edu](mailto:saspreitzer@acenet.edu)), and I would be happy to discuss further if that would be helpful.

Sincerely,



Ted Mitchell, President