Hearing Update: Senate Committee on Investigations Holds “China’s Impact on the U.S. Education System” Hearing

Lewis-Burke Associates LLC – February 28, 2019

On February 28, the Senate Homeland Security and Governmental Affairs Committee’s (HSGAC) Permanent Subcommittee on Investigations (PSI) held a hearing entitled, “China’s Impact on the U.S. Education System.” Although the hearing focused primarily on Confucius Institutes, there were important implications for all institutions of higher education, particularly around immigration and Department of Education (ED) reporting. Two reports were released in conjunction with the hearing: a Government Accountability Office (GAO) report, “CHINA Agreements Establishing Confucius Institutes at U.S. Universities Are Similar, but Institute Operations Vary,” and a PSI staff report, “China’s Impact On The U.S. Education System” were released in conjunction with the hearing.

A major theme expressed by Chairman Rob Portman (R-OH) and Ranking Member Thomas Carper (D-DE) was the need for increased transparency and reciprocity between institutions and China. In his opening statement, Senator Portman referenced statements made by officials from the Federal Bureau of Investigations (FBI) that identified Confucius Institutes (CIs) as threats. Several senators highlighted the PSI staff report observation that China has provided over $158 million in funding to U.S. schools for Confucius Institutes. Policymakers have continued to express concerns that the funding compromises academic freedom and requires U.S. institutions to comply with Chinese law.

The hearing raised two issues in the context of the Confucius Institutes, which have implications for institutions that do not have CIs: foreign gift reporting requirements under section 117 of the Higher Education Act (HEA) and the requirements of the Exchange Visitor Visa (“J-1”). The staff report noted that the “Subcommittee’s investigation demonstrates that nearly 70 percent of U.S. schools that received more than $250,000 from Hanban failed to properly report that information to the Department of Education. Foreign government spending on U.S. schools is effectively a black hole, as there is a lack of reporting detailing the various sources of foreign government funding.” Deputy Secretary of Education Mitchell Zais stated that ED sees CIs as a concern and that the agency intends to work with the Committee to address the issue. He also stated that ED is willing to work with schools to help craft acceptable agreements and that the agency will work to make schools aware of the recommendations included in the PSI staff and GAO reports. Deputy Secretary Zais stated that while there was no timeline from ED on updating the gift reporting guidance, an update would be forthcoming. He also noted that the statute regarding foreign gift reporting does not address gifts to foundations affiliated with institutions of higher education.

The PSI staff report stated, “Some U.S. schools have struggled to comply with the requirements of the Exchange Visitor Visa (or “J-1”). In 2018, the State Department revoked 32 J-1 Professor and Research Scholar visas for Confucius Institute teachers who were not conducting research, but instead were teaching at K−12 schools.” In her testimony, Jennifer Galt, Principal Deputy Assistant Secretary, Bureau of Cultural and Educational Affairs at the U.S. Department of State (State), said that State intends to increase the number of CI site visits; enhance its electronic review of visas, including through the
Student and Exchange Visitor Information System (SEVIS) system; and continue its ongoing engagement with visa sponsors. Other issues addressed during the hearing included a recommendation by Jason Bair, Acting Director of International Affairs and Trade at GAO, on removing confidentiality clauses from CI contracts and making it clear that U.S. institutions retain the ultimate decision-making authority. Senator Portman stressed the need for new guidance from ED on foreign gift reporting and that, absent full transparency and reciprocity from China, CIs should not continue on U.S. campuses. Senator Carper noted that institutions need to change their relationship with CIs and remain vigilant.

It is extremely likely that future legislation and policies will continue to focus on ways to combat perceived attempts by China to influence academia and research. In his written testimony, Deputy Undersecretary Zais noted that ED continues to confer with the U.S. Department of Defense to support the protection of U.S. intellectual property, a result of a directive included in the National Defense Authorization Act for Fiscal Year 2019. These types of directives will continue to be included in future legislation, with the potential to expand to visa and higher education legislation as well.

Sources and Additional Information:

- Opening statements, testimony, and a video from the hearing is available at https://www.hsgac.senate.gov/subcommittees/investigations/hearings/chinas-impact-on-the-us-education-system.