



June 15, 2026

Carolyn Rose
Management and Program Analyst
U.S. Department of Education
Federal Student Aid
400 Maryland Avenue SW
Washington, DC 20202

Re: Agency Information Collection Activities; Comment Request; Foreign Gifts and Contracts Disclosures,
Docket ID number ED-2026-SCC-1354

Dear Ms. Rose,

I am writing to provide comments on the revision of a currently approved information collection request (ICR) titled *Agency Information Collection Activities; Comment Request; Foreign Gifts and Contracts Disclosures* on behalf of the Council for Advancement and Support of Education (CASE). A notice was published in the *Federal Register* by the Department on April 15, 2026, (Docket No.: ED-2026-SCC-1354).

CASE is the global association dedicated to educational advancement—alumni relations, communications, development, marketing, and advancement services—and championing education to transform lives and society. Today, CASE’s membership includes more than 3,000 colleges and universities, primary and secondary independent and international schools, and nonprofit organizations in 82 countries, with 2,335 of our member institutions in the United States. CASE helps these institutions strengthen their relationship with alumni, raise private funds to support their missions, and foster public support for education.

Higher education institutions in the U.S. are fortunate to receive donations and gifts from many sources, including individuals living abroad. According to the most recent *CASE Insights on Voluntary Support of Education*, U.S. colleges and universities received \$78.8 billion in charitable donations between July 1, 2024 and June 30, 2025.¹ While CASE data does not capture how much of this giving is from foreign donors, U.S. colleges and universities reported \$5.2 billion in foreign gifts and contracts to the Department of Education’s data portal in 2025. Assuming the overall percentage breakdown between gifts and contracts reported is consistent year from year, U.S. colleges and universities received at a minimum \$1 billion in charitable gifts from foreign donors in 2025, not counting many additional gifts that did not meet the reporting threshold.² Whether from foreign individuals or U.S. citizens, these

¹ <https://www.case.org/resources/case-insights-voluntary-support-education-united-states-2025-key-findings>

² <https://www.ed.gov/about/news/press-release/us-department-of-education-releases-latest-foreign-funding-disclosures-federally-funded-american-universities>. The \$1 billion estimate was derived by taking 20% of the \$5.2 billion in combined gifts and contracts reported in 2025. The Department does not provide a percentage breakdown of gifts and contracts by year.

charitable gifts help fund scholarships, vital research, and academic programs, helping institutions achieve their teaching and service missions.

As with previous comments submitted to the Department on February 27, 2023³, and December 14, 2020⁴, our focus is on the foreign gift disclosure portion of the ICR. We appreciate the Department's efforts to make it easier for colleges and universities to report gifts via your online portal and certainly acknowledge the need for transparency around gifts from foreign sources. Our intention with these comments is to highlight one specific issue of concern with the revisions to the approved ICR; the requirement that institutions provide donor name and address information.

CASE requests that the Department asks colleges and universities to only report information that is required by statute and, therefore, to eliminate the requirement to provide donor name and address information in the disclosure report.

If the donor name and address disclosure requirement is not eliminated, the ICR could chill giving from foreign individuals and organizations to U.S. colleges and universities which would, in turn, impact these institutions in their work to advance education.

Donor Name and Address Disclosure Not Required in Statute

The Department's proposal to require disclosure of donor names and addresses exceeds the scope of Section 117 and raises significant legal and policy concerns. Section 117 requires that institutions meeting certain criteria must report all foreign gifts that total \$250,000 or more in a calendar year. Institutions, by statute, must report the existence, value, and foreign source of covered gifts and contracts, but Section 117 does not mandate disclosure of personally identifying information about individual donors such as donor names and addresses.⁵

The approved ICR goes beyond statutory language in requiring institutions to disclose the names and addresses of foreign sources. This would violate institutions' commitment to donor confidentiality, something that is taken very seriously. The Donor Bill of Rights, endorsed by CASE, assures donors that they have the right to have information about their donations to be handled with respect and with confidentiality to the extent provided by the law.⁶

Institutions are also subject to state, federal, and international law regarding the protection of a donor's identity. These include the European Union's General Data Protection Regulation, which outlines rights for EU data subjects. While the IRS requires colleges and universities to report certain donor information if the gifts exceed \$5,000 on the Internal Revenue Service Form 990, the IRS is not authorized to disclose

³ CASE February 27, 2023 comments [CASE Comments on Foreign Gifts and Contracts Disclosures Docket ID number ED-2022-SCC-0159.pdf](#)

⁴ CASE December 14, 2020 comments [CASE Comments on Section 117 Notice of Interpretation Docket No. ED-2020-OGC-0165-0001.pdf](#)

⁵ See Congressional Research Service, [Section 117 of the Higher Education Act: Reporting of Foreign Gifts and Contracts \(2025\)](#)

⁶ <https://www.case.org/resources/donor-bill-rights>

donor names when making the information public. At the state level, many states exempt donor identity from public records laws for public colleges and universities.⁷

While having information from higher education institutions regarding foreign donations be available to the public via the new revised portal promotes transparency, public disclosure of donor names and addresses could deter donations. Donors request anonymity for various reasons, including not wanting to be subject to publicity, retribution, or fraud.

Requirement Contrary to Executive Order 14219⁸

Additionally, the Department’s requirement for donor names and addresses conflicts with President Trump’s Executive Order 14219, “Ensuring Lawful Governance and Implementing the President’s Department of Government Efficiency Deregulatory Initiative.” Requiring donor names and addresses would run counter to multiple items President Trump highlighted for regulations agencies should prioritize rescinding in Section 2 of the order:

- (ii) regulations that are based on unlawful delegations of legislative power;
- (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition; and
- (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits

As discussed above, the proposed ICR is not based on the best reading of the underlying statutory authority, and requiring the disclosure of donor names and addresses would mark an unlawful delegation of legislative power to the Department. Furthermore, the potential cost to institutions from increased compliance and declining donations would far outweigh any public benefits from this information. If this proposal is finalized as is, the regulation would immediately be out of compliance with Executive Order 14219.

Recent Supreme Court Privacy Jurisprudence Underscores Risks of Expanded Donor Disclosure

The Department’s proposed requirement to collect donor names and addresses also implicates significant First Amendment concerns. In the recently decided *First Choice Women’s Resource Centers, Inc. v. Davenport*, 608 U.S. ____ (2026), the U.S. Supreme Court unanimously held that a government demand for donor identities, including names and addresses, can itself inflict a present injury to associational rights by chilling participation, even before any disclosure occurs. Specifically, the Court states, “An injury in fact arises when a defendant burdens a plaintiff’s constitutional rights, and government demands for a charity’s private donor information have just that effect.” The Court emphasized that compelled identification of donors discourages individuals from supporting

⁷ For example, Florida law protects the identity of donors who want to remain anonymous. Florida Statutes Section 1004.28(5)

https://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1004/Sections/1004.28.html

⁸ <https://public-inspection.federalregister.gov/2025-03138.pdf>

organizations engaged in protected activity and that this burden arises at the moment the information is demanded.⁹

Consistent with longstanding precedent such as *NAACP v. Alabama* and *Americans for Prosperity Foundation v. Bonta*, this Supreme Court decision underscores that compelled disclosure of donor identity is constitutionally sensitive and must be narrowly tailored to a sufficiently important government interest. Because Section 117 does not require donor names or addresses, mandating their collection and public disclosure would introduce precisely the type of associational and chilling-effect concerns the Court has cautioned against, without clear statutory justification.

Risk of Violence, Political Pressure, and Persecution Affecting Donors and Their Families

The Department's *Frequently Asked Questions* on Section 117 foreign gift and contract reporting recognize concerns raised by the higher education community that "disclosure of a foreign source's identity in certain instances could put the foreign source in danger of being harmed by violence or subject the foreign source to political pressure and persecution by their home countries" (FAQ PD-Q2).¹⁰ These risks are real and extend not only to the foreign source but also to their families and close associates.

Examples include:

- **Political dissidents** who support pro-democracy research in the United States and whose safety—and that of their extended families—could be jeopardized if their identities are disclosed.
- **Alumni and supporters from countries with restrictive regimes**, where providing support to certain U.S. institutions could trigger legal consequences, including criminal liability, due to government designations or restrictions on foreign affiliations.
- **Individuals residing in the United States who retain foreign citizenship**, whose family members abroad may face harassment, surveillance, or other forms of retaliation if their philanthropic activities are made public.
- **Donors and supporters generally**, whose public identification may expose them to heightened risks such as coercion, targeting based on perceived wealth, kidnapping, or other forms of physical danger.

These concerns are particularly acute in the context of any proposal to disclose counterparty names from prior reporting periods. Retroactive disclosure would remove the ability of donors to make informed decisions about the risks associated with public identification.

⁹ *First Choice Women's Resource Centers, Inc. v. Davenport* (2026), https://www.supremecourt.gov/opinions/25pdf/24-781_pok0.pdf

¹⁰ <https://fsapartners.ed.gov/knowledge-center/topics/section-117-foreign-gift-and-contract-reporting/resources/frequently-asked-questions>

At a minimum, any expansion of public disclosure requirements should apply prospectively only and be accompanied by clear, advance notice. This would allow affected individuals to assess potential risks and, if necessary, discontinue or modify their support before disclosure could place them or their families in harm's way.

Therefore, the Department's proposed requirement that institutions provide donor name and address information 1) exceeds the statutory scope of Section 117, 2) is in conflict with Executive Order 14219, 3) raises significant First Amendment concerns around the burden on U.S. college and universities' ability to associate and receive support free from undue government intrusion, and 4) increases risks of violence, political pressure, and persecution on these donors and their families.

Recommendation: The Department's proposed ICR should ask institutions to report information that is only required by statute and not require the disclosure of donor names and addresses.

If the Department elects to continue requiring the disclosure of donor names and addresses in the ICR, notwithstanding the points outlined above, it should, at a minimum, preserve robust protections for the confidentiality of that information. As the Department has previously recognized both in its public FAQs acknowledging risks of violence, political pressure, and persecution, and in its reporting framework allowing institutions to identify information that may warrant non-public treatment, there are circumstances in which disclosure of a foreign source's identity presents legitimate safety and security concerns.

Maintaining a mechanism for institutions to indicate that donor identifying information should remain private is essential to addressing these risks. Such protections are particularly critical for donors and their families residing in foreign jurisdictions where association with U.S. institutions may expose them to retaliation, legal consequences, or physical harm. Accordingly, the Department should continue its existing practice of permitting institutions to request or designate confidential treatment of sensitive donor information.

We appreciate the opportunity to share our comments on the revisions of the currently approved ICR. Thank you for the consideration of the points shared here.

Yours sincerely,



Sue Cunningham
President & CEO