



## Higher Education Act, Section 117 Compliance Policy

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Responsible Officer: University Controller	Last Revision: September 15, 2025

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### I. Policy Statement

Fairleigh Dickinson University is committed to complying with Section 117 of the Higher Education Act of 1965, as amended (20 U.S.C. § 1011f). Section 117 requires higher education institutions that receive Federal financial assistance to submit to the U.S. Secretary of Education reports about any gifts from -- or contracts with -- a “foreign source” that, alone or combined with other gifts and contracts with the same foreign source, are valued at \$250,000 or more in a calendar year.

**As detailed below, this Policy requires that each unit of the University that receives gifts from or enters into contracts with foreign sources must provide information regarding the gift or contract to FDU’s Controller by July 1 (for transactions occurring between January 1 and June 30) and January 8 (for transactions occurring between July 1 and December 31).** All personnel of the University have an obligation to cooperate in a timely and competent manner with the University’s Section 117 reporting policy.

### II. Scope and Definitions

#### A. Scope

The statute requires FDU to file a disclosure report with the U.S. Department of Education (“Department”) on a semiannual basis when the University receives a gift from or enters into a contract with a foreign source, the value of which is \$250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year. FDU must file a disclosure report regarding the gift or contract with the Department on January 31 or July 31, whichever is sooner.

The January 31 report also must capture reportable gifts and contracts that cross the monetary threshold when aggregated on a calendar-year basis. For example, if a foreign source gave \$50,000 through June 30 and gave another \$200,000 in December of a given calendar year, the full \$250,000 would need to be included in the January 31 report.<sup>1</sup>

Section 117's reporting requirement applies to all affiliates of the University, including all campuses located within and outside the United States. Accordingly, FDU needs to report gifts and contracts received by or on behalf of the Vancouver and Wroxtton campuses, where the gift or contract meets the statutory thresholds when considered on a University-wide basis.

Further, if a third party receives a gift from or enters into a contract with a foreign source on behalf of FDU or for the benefit of FDU, that would also be reportable if the financial triggers are met in any calendar year.

Transactions with a foreign source include transactions where an intermediary or agent acts on behalf of the foreign source, even if the agent is based in the U.S. For example, if an organization based in the United States made a gift to FDU on behalf of an organization outside of the country, this would be reportable if the financial threshold was met.

**For gifts:** The statute requires that a gift must be reported when the gift is actually received by the University from the foreign source. A gift that is pledged to – but not yet actually received by – FDU is not reportable under Section 117, even if it is promised under a gift agreement. A gift must be reported if the value of the gift received in any given year – combined with the value of all gifts from and contracts with that foreign source during the same year – meets or exceeds \$250,000. FDU does not need to aggregate the value of gifts received in different calendar years. Accordingly, when FDU actually receives a cash or in-kind portion of a pledge or bequest that meets or exceeds the \$250,000 threshold within a calendar year (when considered alone or with all other gifts and contracts with that same foreign source), that portion of the pledge or bequest must be disclosed.

**For contracts:** Unlike gifts, a contract must be reported once the contract is entered into with a foreign source, and not when a payment is received, if the *value of the*

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<sup>1</sup> Section 117 defines relevant terms, specifies the general contents of the required disclosure reports, and authorizes the U.S. Dept of Education Department to promulgate regulations. To date, the Department has issued no such regulations. The Department has instead published interpretive guidance to expand upon the statutory requirements, including by requiring additional data elements and transaction-by-transaction reporting for all reportable foreign gifts and contracts via an online Reporting Portal. See generally <https://fsapartners.ed.gov/knowledge-center/topics/section-117-foreign-gift-and-contract-reporting>.

*contract over the entire duration of the contract* is \$250,000 or higher (when considered alone or with all other gifts received from and contracts entered into with that same foreign source within the same calendar year). An institution is required to consider the value of the contract over the entire duration of the contract and not solely within a given calendar year. Whether a contract must be reported depends on whether the value of the contract when it is signed, combined with the value of all other gifts and contracts with that foreign source in that calendar year, meets or exceeds the \$250,000 statutory threshold.

## **B. Definitions**

**“Contract”** means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties.

- Note that the Department has issued guidance that it generally views instances where a foreign source pays tuition for a student to meet the definition of a “contract” under Section 117.
- Note that for contracts of indeterminate value, the University must implement a reasonable valuation methodology to value contract over the entire term of the contract.
- Note that the Department has issued guidance that it generally does not view procurement or other contracts involving the purchase of goods or services by the University from a foreign source as a “contract” for purposes of Section 117. Such guidance assumes an arms-length transaction that is unconnected to the provision of other goods or services or funds by the foreign source to the University.

**“Gift”** means any gift of money or property.

**“Foreign source”** means:

- (A) a foreign government, including an agency of a foreign government;
- (B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;
- (C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and
- (D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source.

- The country to which a gift or contract is attributable is: For an individual, the individual's country of citizenship, or if unknown, the individual's principal residence. For a legal entity, the country of incorporation, or if unknown, the principal place of business. When a gift is received from, or a contract entered into with, an agent acting on behalf of a principal foreign source, the country of attribution is that of the principal foreign source.
- According to Guidance issued by the Department, examples of foreign sources include: an institution of higher education that is operated under the direction or control of a foreign government; and, an individual donor who is acting on behalf of a foreign corporation or foreign government.
- The Department has indicated that institutions must conduct reasonable due diligence and make a good faith effort to understand the source of the gift or the identity of a contract counterparty.

Gifts or contracts that meet the definition of a "restricted or conditional gift or contract" trigger the need for additional reporting detail. This requires that the FDU employee who is familiar with the gift or contract be available to provide necessary information to the Controller's Office and working group discussed below.

**"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.

In its semiannual reporting, FDU must provide a detailed description of all conditions or restrictions that meet each of the above components of the definition.

### **III. Procedure**

The University Controller is responsible for overseeing and executing the University's Section 117 obligations and the implementation of this Policy.

**Since the \$250,000 reporting threshold applies on a University-wide basis (that is, it requires the combination of all gifts and contracts the University has with a given foreign source), FDU must collect information as to all gifts and contracts (regardless of amount) with any foreign source across FDU as a whole during each reporting period.**

For reportable transactions occurring between January 1 and June 30, FDU must submit disclosure reports to the Department by July 31. For reportable transactions occurring between July 1 and December 31, FDU must submit disclosure reports to the Department by January 31.

**To enable FDU to meet these deadlines, each unit of the University that receives gifts from or enters into contracts with foreign sources (each a “Reporting Unit”) must provide information regarding the gift or contract to FDU’s Controller by July 1 (for transactions occurring between January 1 and June 30) and January 8 (for transactions occurring between July 1 and December 31).**

Reporting units are required to conduct reasonable due diligence to determine whether a contract or gift is with a “foreign source.” This may include asking the counterparty to confirm whether they meet the statutory definitions of a foreign source and searching publicly available information and records associated with the individual or entity. A foreign source must be reported even if it has requested anonymity. The name of the donor or contracting party must be reported to the Department, but the Department does not currently publish the names and addresses of the contracting parties or donors in its public database of Section 117 filings, except with respect to restricted or conditional gifts and contracts with a foreign government.

Reporting units must determine the total value of each of their contracts over their entire duration. This can be straightforward, as where a contract is for a fixed price. Where a contract does not have a fixed price, the unit must use a reasonable valuation methodology to determine the total value of the contract over its entire duration and not just the calendar year when the contract begins or payments are received. The Department does not require a specific valuation method, but directs institutions to consider fair market value of the property or services that are being provided to the foreign source. The Controller’s Office is available to assist units in determining a reasonable methodology for each contract. The reporting unit should make and retain a record of the reasonable valuation method it used to derive total value.

Note that Section 117 generally does not cover contracts for FDU’s payments to a foreign source for services or property provided by the foreign source (such as procurement contracts). An exception would be a contract for the transfer of property or services to FDU for a price below value, as a means to convey a gift to the University.

That type of contract would be reportable. Reporting units should reach out to the Controller's Office where questions regarding appropriate reporting arise.

FDU may be required to disclose international partnerships or collaborative agreements where: (1) the contract involves the acquisition of property or services by the foreign source; (2) the property or services are for the direct benefit or use of either FDU or the foreign source; and (3) the value of the contract – over its duration – is for \$250,000 or more (when considered alone or in combination with all other gifts and contracts with the foreign source). For example, if FDU enters into a collaboration agreement with a university outside the U.S. for a student exchange and visiting faculty program and if that agreement committed the international university to provide funding to FDU in return for FDU's housing and programming, the contract would be reportable if its total value exceeds the reporting thresholds. On the other hand, a Memorandum of Understanding that involves exploring opportunities for collaboration and which does not legally commit either institution to provide funding or resources would not be reportable under Section 117. If the MOU later leads to the parties' entering into binding agreements, those future contracts might be reportable if they meet Section 117's criteria.

Contracts that meet the \$250,000 threshold for reporting are generally reported once (and not each year when the funds are received).

Based on review of the operations of the University's units and operations, the University has determined that the following units may have information related to gifts and contracts with foreign sources. Accordingly, they are designated as "Reporting Units" under this Policy and must report twice each year all requested information to the University Controller. The University reviews this list from time to time and requests University stakeholders to provide information about units that should be added to this list. Reporting units at FDU include:

- Office of the President
- Office of the General Counsel
- Office of Academic Affairs
- Academic Deans
- International Education
- Office of Grants and Sponsored Projects
- Office of Finance and Administration
- Office of Student Affairs
- Office of Enrollment Management
- Office of University Advancement
- Office of Undergraduate and Graduate International Enrollment
- Office of Financial Aid
- Office of Information Resources and Technology

- Office of Facilities and Auxiliary Services
- Office of Strategic Initiatives and Government and Community Affairs
- Offices of Athletic Directors (Metropolitan Campus and Florham Campus)
- Vancouver Office of Chief Operating Officer
- Wroxtton Campus Dean

Promptly following receipt of the reports from the units, the University Controller will convene a meeting with a Section 117 working group consisting of the Controller, General Counsel (or designee), Senior Vice President for University Advancement (or designee), and Director of Global Education. The Controller may expand the composition of the working group as appropriate to meet the University's needs. The working group will analyze the information compiled by the Controller and will interview University employees as needed to collect further details regarding reportable gifts and contracts. For the January 31 report, the University examines all transactions for the entire calendar year for purposes of applying the \$250,000 threshold. The Controller (or designee) will file the Section 117 report with the Department by July 31 and January 31 each year.

The University submits reports to the Department of Education consistent with the Department's procedures and requirements. Generally, each covered transaction should be reported individually. Gifts and contracts should be reported individually even when an individual transaction is reportable only when combined with other gifts or contracts with the same foreign source in a calendar year. An exception is that a student sponsorship agreement with a particular foreign source, if substantially the same, may be aggregated and reported collectively.

If FDU becomes aware of facts that make previously reported information materially inaccurate, FDU must withdraw its prior disclosure reports and submit correct reports. Reporting units should inform the Controller of any amendments or corrections to previously reported gifts and contracts as part of their routine semiannual reports. If FDU determines it needs to edit a previously submitted report, it will need to flag the submission for withdrawal and re-submit a corrected disclosure report in full.

The Department releases to the general public the information it collects from universities regarding their foreign gifts and contracts through a public database.

Questions regarding this Policy should be directed to the Controller's Office, which will in turn confer with the Office of General Counsel as needed.