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July 31, 2024

VIA EMAIL

The Honorable John Moolenaar
Chairman
Select Committee on the Chinese Communist
Party
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, D.C. 20515

Confidential Treatment Requested
All Rights Reserved

Dear Chairman Moolenaar:

This letter is submitted on behalf of the President and Fellows of Harvard College (“Harvard”) in response to your July 1, 2024 letter sent as Chairman of Select Committee on the Chinese Communist Party (the “Committee”). We appreciate the willingness of the Committee staff to provide additional time to respond to your questions. Today, Harvard has asked me to formally submit the enclosed information in Appendix A, in connection with the Committee’s July 1 Letter Requests.

In responding to the questions in your letter, we have worked in good faith to be as accurate and responsive as possible. This response is the product of reasonable and diligent efforts to provide information in connection with your questions and, as such, reflects Harvard’s current information and belief. The representations herein are based on reasonably available information and are not intended to, and do not, capture all information related to these matters, nor are they an exhaustive description of the information discussed. Pursuant to further discussions with the

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Committee staff, Harvard will continue cooperating appropriately with the Committee's inquiry, as detailed in prior communications with the Committee staff.

In providing this information, Harvard does not waive, nor intend to waive, any rights or privileges that may be applicable with respect to the Committee's inquiry, including any applicable attorney-client privilege, attorney work product, or other evidentiary privilege, and any objections to the Committee's inquiry.

Harvard also has worked to strike the right balance in submitting information helpful to the Committee's understanding of certain issues while appropriately protecting confidential and sensitive information, including information that may be subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. As you are aware, FERPA generally prohibits educational agencies from disclosing "education records" or "personally identifiable information in education records" ("PII") to third parties without written consent. 20 U.S.C.A. § 1232g. FERPA's regulations define "personally identifiable information" to include not only information such as names, addresses and social security numbers, but also "information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty." 34 C.F.R. § 99.3. An institution may be permitted to disclose records without first obtaining consent if all PII has been removed and the institution "has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information." 34 C.F.R. § 99.31(b)(1).

As discussed with the Committee staff, protecting Harvard students, faculty, and staff, and preventing future threats or incidents are of the highest priority and utmost concern to Harvard and me. In light of these concerns, we remain engaged in ongoing discussions with the Committee staff regarding these issues, including any potential disclosure of confidential and personally identifiable information. We will continue to emphasize appropriately these confidentiality issues with the Committee staff.

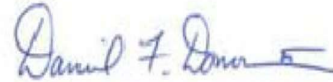
Finally, this letter and the information provided herein contain confidential information submitted pursuant to the Committee's inquiry. We respectfully request that the Committee accord to this letter, Appendix A, and any subsequent communications or materials furnished to the Committee the maximum protection available to information provided to the Committee and pursuant to the Committee's rules and the Rules of the House of Representatives. While Congress may request such information, Congress has long recognized the critical and sensitive nature of confidential and proprietary information, as reflected by the enactment of certain confidentiality statutes, and the Committee should protect against the disclosure of such confidential information. The intentional or inadvertent disclosure of information designated as confidential may cause substantial harm to Harvard, its students, faculty, and staff. Accordingly, the Appendix A in today's submission is marked with the legend "HARVARD CONFIDENTIAL TREATMENT REQUESTED. ALL RIGHTS RESERVED." Harvard

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respectfully requests advance notice of any contemplated disclosure of its confidential information and a reasonable opportunity to object. Please direct such notice to my attention.

If the Committee has any questions regarding this matter, please do not hesitate to contact me at (202) 661-7815 or by email at ddonovan@kslaw.com.

Sincerely,

A handwritten signature in blue ink that reads "Daniel F. Donovan" with a stylized flourish at the end.

Daniel F. Donovan

cc: The Honorable Raja Krishnamoorthi
Ranking Member

Appendix A

HARVARD'S RESPONSE TO THE COMMITTEE'S LETTER DATED JULY 1, 2024

- 1. Did Harvard exercise sole responsibility for security at the event? If not, did Harvard partner with representatives of the Chinese government or any private agency? If so, were those representatives bound by Harvard's regulations, and if not what guidelines, if any, did they operate under?**

Response:

Harvard University Police Department ("HUPD") officers, including one officer from the HUPD's Dignitary Protection Unit, provided security for the event. After reasonable diligence, we have not identified, nor do we believe there was, any partnership with representatives of the Chinese government or with any private agency regarding security for the event.

- 2. Did any faculty members of the Harvard Kennedy School liaise with outside agencies and/or the Chinese government on security policies for the event? If so, were they present at the event, and did they approve of what transpired? If not, will there be an investigation?**

Response:

After reasonable due diligence, we do not believe any Harvard Kennedy School ("HKS") faculty members liaised with outside agencies and/or the Chinese government on security policies for this event.

- 3. Absent official written authority to engage in a security function, the individual's actions appear to constitute assault and battery under Massachusetts law.**
 - a. Does Harvard have a written agreement with the individual that would make them a designated agent of Harvard for the purpose of providing security at the event? If so, please promptly provide a copy of this written agreement.**

Response:

No.

- b. Does Harvard have a policy for reporting criminal acts on its campus to the appropriate state and local authorities? If so, please promptly provide a copy of this policy.**

Response:

With the exception of certain crimes, such as homicide, the HUPD, which includes sworn special State Police officers, has primary jurisdiction over all crimes occurring on Harvard property and is independently authorized to respond to criminal acts on Harvard's campus.¹

The HUPD is required by applicable legislation to provide monthly and annual reports to state and federal authorities regarding crimes that occur on Harvard's campus. Some of the key statutes that impose these reporting requirements are the Clery Act (20 U.S.C. § 1092(f)), the Warrant Service and Felony Notification Procedures of the Code of Massachusetts Regulations (515 CMR § 5.07), and the Uniform Crime Reporting requirements of the Massachusetts General Laws (MGL Title II, Ch. 6, §168).

- c. If Harvard has a policy for reporting crime on its campus and the individual was not a designated agent of Harvard for purposes of providing security at the event, did Harvard follow this policy in this instance by reporting this individual's actions to state and local law enforcement? If so, please provide documentation showing that Harvard followed this policy.**

Response:

The HUPD officers present at the event submitted an assault and battery incident report (as reflected in the public police log at HRVD-HSC-00001). A few days later, the HUPD contacted the student who was protesting at the event, and the student protestor did not wish to pursue criminal charges against the graduate student involved. The HUPD contacted the student protestor again several weeks after the event and the student protestor once again did not elect to pursue criminal charges. Subsequently, the HUPD closed its investigation. The HUPD also submitted a report to the Massachusetts State Police (see HRVD-HSC-00002 to HRVD-HSC-00005).

¹ <https://www.hupd.harvard.edu/faq/whats-difference-between-hupd-and-city-police-cambridge-boston-police-etc>.

4. **Have any Harvard administrators reached out to the student protestors since the incident to understand what happened and provide possible security assistance?**
5. **Has any disciplinary investigation been initiated following the incident against the students involved in the incident?**

Response to Questions 4 and 5:

Three of the five protestors were Harvard students. Harvard College residential deans reached out to the student protestors after the incident to understand what happened and provide support as necessary.

The 2023-2024 Harvard College Student Handbook sets out the following requirements of these students:

- “It is the expectation of the College that all students, whether or not they are on campus or are currently enrolled as degree candidates, will behave in a mature and responsible manner. This expectation for mature and responsible conduct also encompasses accountability for one’s own well-being, including responsible decision-making regarding physical and mental health. Further, the College expects every student to be familiar with the regulations governing membership in the Harvard community, set forth in the pages that follow. Because students are expected to show good judgment and use common sense at all times, not all kinds of misconduct or behavioral standards are codified here. The College takes all these diverse principles very seriously; together they create a foundation for the responsible, respectful society that Harvard seeks to foster among its students, faculty, and staff.” *Harvard College Student Handbook, Page 49.*
- “The College expects that all students will be honest and forthcoming in their dealings with the members of this community. Further, the College expects that students will answer truthfully questions put to them by a properly identified officer of the University. Failure to do so ordinarily will result in disciplinary action, including, but not limited to, the requirement to withdraw from the College. All students are required to respect private and public ownership; instances of theft, misappropriation, or unauthorized use of or damage to property or materials not one’s own will ordinarily result in disciplinary action, including requirement to withdraw from the College. A student who commits an offense against law and order during a public disturbance or demonstration or who disregards the instructions of any other University officer at such a time is subject to disciplinary action and may be required to withdraw.” *Harvard College Student Handbook, Page 53.*
- “The University places special emphasis, as well, upon certain values which are essential to its nature as an academic community. Among these are freedom of speech and academic freedom, freedom from personal force and violence, and freedom of movement. Interference with any of these freedoms must be regarded as a serious

violation of the personal rights upon which the community is based. Furthermore, although the administrative processes and activities of the University cannot be ends in themselves, such functions are vital to the orderly pursuit of the work of all members of the University. Therefore, interference with members of the University in performance of their normal duties and activities must be regarded as unacceptable obstruction of the essential processes of the University.” *Harvard College Student Handbook, Page 53.*

In accordance with these requirements, the students were referred to the Harvard College Administrative Board to investigate a concern that these students may have disrupted the China Conference at the Harvard Kennedy School by interrupting the speaker, making loud noises, and chanting, which resulted in their being escorted from the event. On May 17, 2024, the Administrative Board voted to place the three students on disciplinary probation until May 20, 2024, “due to inappropriate social behavior involving a violation of the University-wide Statement on Rights and Responsibilities.”

- 6. If Harvard has initiated disciplinary proceedings against the students involved, will Harvard commit to consistently upholding its obligation to enforce its rules equally regardless of the students’ viewpoints?**

Response:

Harvard is committed to the principles of equal opportunity and prohibits discrimination on the basis of age, race, color, national origin, sex, and political beliefs, among others. Harvard disciplinary process policies are enforced in a content-neutral manner.

- 7. Was the person in a dark suit who forcibly removed Cosette Wu a Harvard student? If yes, was he a student from China on an F visa?**
- a. Was he a member of the CSSA at Harvard?**
 - b. Was he a member of the Harvard Kennedy School’s Greater China Society?**
 - c. If he was a student, did his actions violate any university rules? What disciplinary consequences will he face in case of any violation?**

Response to 7 (a)-(c):

The individual in question was a student at the Harvard Graduate School of Education (“HGSE”). Harvard is unable to disclose the nationality, country of origin, or immigration status of the student without the student’s written consent as “personally identifiable information” as enacted by Congress under the Family Educational Rights and Privacy Act (“FERPA”). *See* 20 U.S.C.A. § 1232g; 34 C.F.R. §§ 99.3, 99.30.

Harvard CSSA is a University-wide Student Group and the student was a member. After reasonable diligence, we were not able to determine whether the student was a member of the Harvard Kennedy School's Greater China Society, but the student was not an officer of that group.

A complaint regarding the student's conduct was referred to the HGSE administration to determine if disciplinary proceedings should be initiated by referring the matter to the Committee on Rights and Responsibilities ("CRR"). The HGSE administration decided not to refer the matter to the CRR.

- 8. Is the Harvard Kennedy School's Greater China Society a recognized student organization at Harvard? The Greater China Society shares the same logo with an older Kennedy School organization, "the China Society," whose Chinese name "哈佛大学肯尼迪政府学院中国学生学者联合会" indicates that it was a Chinese Students and Scholars Association. So what is the relationship between Harvard Kennedy School's Greater China Society and Harvard's CSSA?**

Response:

Yes, the Greater China Society is a recognized student organization at Harvard Kennedy School. Harvard is not aware of any formal relationship between these organizations, but nothing restricts students from being members of both organizations.

- 9. Does the Harvard Kennedy School's Greater China Society coordinate its activities with the Chinese government or the Chinese diplomatic missions?**

Response:

After reasonable diligence, it is our understanding that HKS policies do not permit student organizations to form partnerships with outside organizations or host events on their behalf nor are student organizations permitted to be chapters of external organizations.

- 10. Does the Harvard Kennedy School's Greater China Society or Harvard's CSSA receive any funding from Chinese diplomatic missions or other Chinese government entities?**

Response:

After reasonable diligence, we have not identified any funding from Chinese diplomatic missions or other Chinese government entities for the Harvard Kennedy School's Greater China Society. Harvard CSSA is a University-wide Student Group, and as such, maintains their own student organization financial transactions.

11. Does Harvard utilize any federal funding to support the activities of the CSSA or Harvard Kennedy School's Greater China Society? If yes, how much per annum?

Response:

After reasonable diligence, we have not identified any federal grants used to support the activities of Harvard CSSA or HKS Greater China Society.

12. How does Harvard regulate foreign government-backed student organizations and ensure their activities do not infringe on the freedom of any students?

Response:

After reasonable diligence, it is our understanding that the University-wide Student Groups require student organizations to maintain local autonomy, meaning that the student organization makes all policy decisions without obligation to any parent organization, national chapter, or charter. Similarly, it is our understanding that HKS policies do not permit student organizations to form partnerships with outside organizations or host events on their behalf nor are student organizations permitted to be chapters of external organizations.

13. What is Harvard doing to educate and inform students, especially international students, about their obligations and rights for civil liberty?

Response:

Harvard has adopted a University-wide Statement on Rights and Responsibilities, which specifies that the University places "special emphasis upon certain values which are essential to its nature as an academic community, including freedom of speech and academic freedom, freedom from personal force and violence, and freedom of movement." Individual schools have their own policies encouraging and emphasizing this message.

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