
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 1313 **Hearing Date:** June 19, 2019
Author: Luz Rivas
Version: June 6, 2019
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Higher education: prohibited debt collection practices

NOTE: This bill has been referred to the Committees on Education and *Judiciary*. A "do pass" motion should include referral to the Committee on *Judiciary*.

SUMMARY

This bill establishes the Educational Debt Collection Practices Act and prohibits any public or private postsecondary school from withholding a transcript for a current or former student on the grounds that the student owes debt.

BACKGROUND

Existing law:

- 1) Regulates the practice of debt collection and the conduct of debt collectors under the Rosenthal Fair Debt Collection Practices Act by prohibiting deceptive, dishonest, unfair, and unreasonable practices. (Title 1.6C of Part 4 of Division 3 of the Civil Code, commencing with § 1788.)
- 2) Provides that, whenever a student transfers from one community college or public or private institution of postsecondary education to another within the state, appropriate records or a copy thereof shall be transferred by the former community college, or college or university upon a request from the student. However, the community college, college, or university from which the student is transferring may notify the student that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college, or university. (EC §76225.)
- 3) Requires the governing boards of University of California (UC), Hastings, California State University (CSU) and the CCC to adopt regulations providing for the withholding of institutional services from students or former students that they are in default, as defined, under the FFEL Program. The services that may be withheld from the student include the provision of grades and transcripts, but not the withholding of registration privileges. (EC § 66022.)

ANALYSIS

This bill establishes the Educational Debt Collection Practices Act and prohibits any public or private postsecondary school from withholding a transcript for a current or former student on the grounds that the student owes debt. Specifically, it:

- 1) Prohibits a public or private postsecondary school from doing any of the following:
 - a) Refuse to provide a transcript for a current or former students on the grounds that the student owes debt.
 - b) Condition the provision of a transcript on the payment of a debt, other than a fee charged to provide the transcript.
 - c) Charge a higher fee for obtaining a transcript, or provide less favorable treatment of a transcript request because a student owes debt.
 - d) Use transcript issuance as a tool for debt collection.
- 2) Modifies provisions that authorize the withholding of certain services from a student that have defaulted on a loan under the Federal Family Education Loan (FFEL) program through regulations adopted by the governing bodies of the public postsecondary educational institutions by removing the authority to withhold transcripts from that student. (The FFEL program was replaced by the Federal Direct Student Loan Program in 2010)
- 3) Deletes provisions that authorize a college or university to withhold a transferring student's records upon payment of fees or charges due to that college or university.
- 4) Defines "school," to mean any public or private postsecondary school, or any public or private entity, responsible for providing transcripts to current or former students of a school.
- 5) Defines "debt," to mean any money, obligation, claim, or sum, due or owing, or alleged to be due or owing, from a student, but does not include the fee, if any, charged to all students for the actual costs of providing the transcripts.
- 6) Makes conforming and technical changes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "current policies that allow schools to withhold transcripts in order to collect debt threaten to interfere with the employment, licensure, or further education of students in California. Existing law authorizes public and private higher education institutions to adopt these policies, and legislation is needed to make clear that schools should not engage in this particular method of debt collection in the future.

AB 1313 will prohibit any higher education institution from withholding transcripts for the purposes of debt collection. This is a practice that goes against California's values and protects educational and occupational opportunities for our college students."

- 2) **Average student loan debt for California graduates.** According to The Institute for College Access and Success (TICAS) and its Project on Student Debt, 65 percent of seniors who graduated from public and nonprofit colleges in 2017 had student loan debt, with an average nationally of \$28,650 per borrower. TICAS reports that the share of graduates with debt rose steadily from 1996 to 2012. Between 2012 and 2016 the growth stopped. The report notes, that this overall trend for bachelor's degree recipients masks significant variation in debt burden for different types of students. TICAS also reports that average debt in California is \$21,852 at public and private non-profit colleges and that about 50 percent of students graduate with debt, ranking California 46th and 40th nationally, respectively. California falls below the national average in student loan debt and classified as a low-debt state. The outstanding debt referenced in the bill is not specific to student loan debt and could apply to debt incurred through other means such as owing fees.
- 3) **Withholding of transcripts is common practice.** The practice of withholding transcripts for delinquent accounts is a fairly common and effective tool in recouping outstanding funds owed to the institution. According to the University of California (UC), the tool is the campus' primary leverage to engage students about debt repayment when they transfer to another university or apply to graduate degree programs. Promoting debt repayment in this manner reduces the amount of delinquent accounts that UC would otherwise have to report to third-party collection agencies. The withholding policy allows UC campuses to work with students to develop repayment plans and campuses often release transcripts once the student agrees to such a plan. California State University as well as private institutions also use the withholding of transcripts as a method to recoup debt owed to schools. The segments have expressed concerns that this bill would compel them to either attempt more costly means of debt collection or write-off outstanding debt. Could this bill result in institutions choosing to report students with more frequency to a collection agency or credit reporting agency?
- 4) **Does not prohibit withholding of grades, and diplomas for debt owed.** The bill prohibits the withholding of transcripts from a student who owes debt including from those in default on a loan under the Federal Family Education Loan Program. A student who defaulted on that federal loan may still withhold grades or diploma from that student under provisions specified in current law. In part, the bill is silent, as is current law with exception of federal loan program mentioned, regarding other tools that may be used to recoup other types of outstanding debt. Presumably, an institution could withhold other services such as grades or a diploma from students to collect money owed.
- 5) **Related activity in K-12.** This bill is consistent with recent legislation enacted, AB 1974 (Gonzalez, Chapter 577, Statutes of 2018), to prohibit K-12 public and charter schools from withholding grades or transcripts from pupils or former pupils because of a debt owed to the school.
- 6) **Fiscal effect.** According to the Assembly Appropriations Committee the bill would have the following fiscal impact:

- a) Unknown, potentially significant ongoing Proposition 98 General Fund cost pressures to California Community College Districts (CCDs) to the degree this bill limits their ability to collect debt. Currently, the California Community (CCC) Chancellor's office does not uniformly track student debt information systemwide.

The state would need to reimburse these costs to CCC, if the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate.

- b) Unknown, potentially significant ongoing General Fund cost pressures to California State University (CSU) campuses and to University of California (UC) campuses, to the degree this bill limits their ability to collect debt. Both systems indicate they do not uniformly track student debt information systemwide. According to CSU, using rough estimates, the bill could result in revenue losses in the hundreds of thousands of dollars. According to UC, costs could be as high as the millions of dollars.

SUPPORT

American Federation of State, County and Municipal Employees, AFL-CIO
California Community Colleges Chancellor's Office
California Department of Justice (Sponsors)
California Faculty Association
California Teachers Association
Student Borrower Protection Center

OPPOSITION

None received

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