
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

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SUMMARY

This bill eliminates the sunset on the authority of the California State University (CSU) and the University of California (UC) to distribute the names and addresses of alumni for purposes of participation in affinity programs, expands the opt-out disclosure methods which may be used, and eliminates related obsolete reporting requirements.

BACKGROUND

Existing law, the California Financial Information Privacy Act (Act), prohibits financial institutions from sharing or selling personally identifiable nonpublic information without obtaining a consumer's consent, as specified. The act requires that a consumer consent to an "opt in" for sharing private information with an unaffiliated third party, and requires that consumers be given the opportunity to "opt out" of sharing private information with a financial institution's affiliates.

Under the Act, when a financial institution and an affinity partner (i.e. an organization or business entity that is not a financial institution) have an agreement to issue an affinity card (i.e. a credit card in the name of the affinity partner) or other financial product or service, disclosure of information is generally limited to provision of name, address, telephone number and electronic mail address. Such disclosure is permitted only if specified notice requirements are met and the consumer has not "opted out" of the sharing of the information. (Financial Code § 4054.6)

Existing law, until January 1, 2016, authorizes the governing bodies and alumni associations of the CSU and UC to distribute the names and addresses of alumni to businesses with whom they have affinity-partner agreements if specified privacy and disclosure requirements are met. These provisions apply to the UC only to the extent that the regents adopt a resolution doing so. (Education Code § 89090 and § 92360)

ANALYSIS

This bill:

- 1) Deletes the sunset on the authority extended to the governing bodies and alumni associations of the CSU and the UC to distribute the names and addresses of alumni to businesses with whom they have affinity-partner agreements.

- 2) Deletes the requirement that the “opt out” form, which the institution must provide as part of the requirement that alumni be noticed that personal information may be disclosed, be a separate document.
- 3) Expands the opt-out disclosure mediums which may be used to include any of the following, as specified:
 - a) A separate document.
 - b) Incorporation into another communication piece intended for the target audience.
 - c) An internet web link to the form on the Trustees or Regents website, or the affected alumni or auxiliary association, as applicable.
- 4) Deletes obsolete reporting requirements.

STAFF COMMENTS

- 1) ***Affinity programs.*** Current law authorizes the disclosure of private information by the California State University (CSU) and the University of California (UC) for purposes of participation in affinity programs. An affinity program provides a means whereby a tax-exempt organization may generate funds by allowing the use of its name and/or logo to endorse products or services. In the case of the UC and CSU, through partnerships with commercial entities, affinity programs allow alumni organizations to offer a variety of financial products to graduates and alumni members, such as group rates and discounts for home and auto insurance, mortgage programs, credit cards, and other credit lines. In return for allowing access to alumni association mailing lists, the affinity partner pays a fee to the campus association.
- 2) ***History.*** When the California Financial Information Privacy Act (CFIPA), which prohibits financial institutions from sharing or selling personally identifiable nonpublic information without obtaining a consumer's consent, was enacted, it required that a consumer consent to an "opt in" for sharing private information with an unaffiliated third party, and required that consumers be given the opportunity to "opt out" of sharing private information with a financial institution's affiliates.

Although the UC and CSU report that their alumni associations had been executing affinity agreements for more than 20 years, the enactment of the CFIPA, coupled with the existing prohibition on the distribution of personal information under the California Information Practices Act of 1977 (CIPA), resulted in ambiguity about the authority of agencies subject to the CIPA to enter into affinity agreements with financial institutions. SB 569 (Torlakson, Chapter 498, Statutes of 2005) was enacted to specifically authorize the UC and CSU to distribute the names and addresses of alumni for participation in affinity programs until 2011, subject to specified notice and disclosure requirements.

- 3) ***Reporting requirements.*** The authority granted by SB 569 was extended to January 1, 2016 by subsequent legislation, which also declared the Legislature's

intent that the California State University (CSU) and the University of California (UC) report on the implementation of affinity partnership agreements to the Senate and Assembly Judiciary Committees by July 1, 2014. Among other things, the report was to include a survey of affinity partnership agreements, information on how many alumni have opted out of the agreements, and whether the Institution is complying with the opt out requirements.

According to the UC report, affinity program revenue has supported student scholarships, created programs and communications designed to build a greater sense of UC community, volunteerism and philanthropy, and developed activities for alumni and student career networking, continuing education and community volunteerism. The number of alumni opting out of information sharing ranges from a low of 1,702 at UC Davis to a high of 68,603 at UC Berkeley.

According to the CSU report, among other things, at the systemwide level the CSU has developed an optional toll-free opt-out telephone line which is currently used by 13 of the CSU campuses. Of its more than 2.8 million alumni, about 258,000 have opted out from information sharing.

SUPPORT

California State Student Association
California State University
University of California

OPPOSITION

None received.

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