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AB-819 Public postsecondary education: alumni associations. (2015-2016)

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Assembly Bill No. 819

CHAPTER 121

An act to amend Sections 89090 and 92630 of, and to repeal Sections 89090.3, 89090.5, 92630.3, and 92630.9 of, the Education Code, relating to the public postsecondary education.

[Approved by Governor July 16, 2015. Filed with Secretary of State July 16, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 819, Irwin. Public postsecondary education: alumni associations.

(1) Existing law establishes the California State University, administered by the Trustees of the California State University, and the University of California, administered by the Regents of the University of California, as 2 of the segments of public postsecondary education in this state.

Existing law prescribes criteria for the disclosure of the names and addresses of alumni of the California State University and the University of California. Existing law requires that the names, addresses, and electronic mail addresses of alumni be disclosed only to provide those persons with informational materials relating to the California State University or the University of California, and their respective programs and activities; to provide those persons, or the trustees, auxiliary organizations of the California State University, as defined, or the Regents of the University of California, or the alumni associations with beneficial commercial opportunities; or to promote and support the educational mission of the California State University, the University of California, the trustees, the regents, or the alumni associations.

Existing law authorizes this disclosure only if the trustees, auxiliary organizations, or the alumni associations, in the case of the California State University, or the regents or the alumni associations, in the case of the University of California, have a written agreement with a business, as defined, that maintains control over this data. Under existing law, this agreement is required to obligate the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, to require the university or the college to retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni, and the business from using the information for any purposes other than those described. However, existing law prohibits the disclosure of alumni names, addresses, and electronic mail addresses of alumni who have directed the trustees, the regents, the board of directors, or an alumni association or auxiliary organization, not to disclose their names, addresses, or electronic mail addresses.

Existing law requires the California State University and the University of California to make available to their respective alumni a specified form or an alternative notice, in a mailing or in an Internet posting, as prescribed, before alumni names, addresses, and electronic mail addresses may be disclosed that provides alumni the opportunity to opt out of certain disclosures of that identifying information. Existing law requires the form to be a separate document, except as specified.

Under existing law, the above provisions are applicable to the University of California only to the extent that the regents or the board of directors act, by resolution, to make them applicable.

This bill would instead provide that this form may be incorporated into another communication piece intended for the target audience, or through a link to the form located on the Internet Web site of the trustees, the regents, the affected alumni association, or the affected auxiliary organization, as specified.

(2) Existing law expresses the intent of the Legislature that, by July 1, 2014, the California State University and the University of California submit reports to the Legislature regarding compliance with the provisions described in (1).

This bill would repeal these provisions.

(3) Existing law specifies that the provisions described in (1) are repealed as of January 1, 2016.

This bill would delete those repeal dates, and thereby extend the operation of these provisions indefinitely.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 89090 of the Education Code is amended to read:

89090. (a) The trustees, alumni associations, and auxiliary organizations may distribute the names, addresses, and electronic mail addresses of alumni of the California State University to a business as described in subdivision (b), in order to accomplish any or all of the following:

- (1) To provide those persons with informational materials relating to the university and its programs and activities.
- (2) To provide those persons, the trustees, the alumni associations, and the auxiliary organizations with commercial opportunities that provide a benefit to those persons, or to the trustees, alumni associations, or auxiliary organizations.
- (3) To promote and support the educational mission of the university, the trustees, the alumni associations, or the auxiliary organizations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The trustees, the alumni associations, or the auxiliary organizations have a written agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the California State University retain the right to approve or reject any purpose for which the private information is to be used by the business, and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the trustees, the affected alumni association, or the affected auxiliary organization unless and until the mailing conspicuously identifies the university, the alumni association, or the auxiliary organization as associated with the business described in the mailing.

(B) If an affinity partner, as defined in Section 4054.6 of the Financial Code, sends any message to any electronic mail address obtained pursuant to this section, that message shall include at least both of the following:

- (i) The identity of the sender of the message.
- (ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The trustees, an alumni association, or an auxiliary organization shall not disclose to, or share alumni nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the alumnus, pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and electronic mail addresses does not include the names, addresses, and electronic mail addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the trustees, an alumni association, or an auxiliary organization not to disclose their names, addresses, or electronic mail addresses.

(4) No information regarding either of the following is disclosed:

- (A) The current students of the California State University.
- (B) An alumnus who, as a student at a campus of the California State University, indicated that, pursuant to the federal Family Educational Rights and Privacy Act (Public Law 93-380), he or she did not wish his or her name, address, and

electronic mail address to be disclosed.

(c) (1) The trustees, the affected alumni association, or the affected auxiliary organization shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, shall be provided by the trustees, the alumni association, or the auxiliary organization to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the trustees, the alumni association, or the auxiliary organization regarding the sharing of his or her name, address, and electronic mail address:

(A) The form uses the title "IMPORTANT PRIVACY CHOICE" and the header, if applicable, as follows: "Restrict Information Sharing With Affinity Partners."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form may be provided as a separate document, incorporated into another communication piece intended for the target audience, or through a link to the form located on the Internet Web site of the trustees, the affected alumni association, or the affected auxiliary organization. If the form is provided through a link to an Internet Web page, it shall be accompanied by the title "IMPORTANT PRIVACY CHOICE" and a clear and concise description of the choice that can be made by accessing the form. This requirement may be met by using text materially similar to the first paragraph of the form set forth in paragraph (2).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences (an average of 15 to 20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say "NO," we may share your name, address, and electronic mail address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

() NO, please do not share my name, address, and electronic mail address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our affinity partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and electronic mail address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

- (1) Call this toll-free telephone number: (xxx-xxx-xxxx).
- (2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.
- (3) Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

Name:

Address:

Signature:

(3) (A) The trustees, the affected alumni association, or the affected auxiliary organization shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and electronic mail addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B) The form shall be provided to alumni in each of the following communications:

- (i) The solicitation to students, upon their graduation, from the trustees or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.
- (ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.
- (iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.
- (iv) A one-time mailing to all alumni on the university mailing list as of January 1, 2006.
- (v) An annual electronic communication to those alumni for whom electronic mail addresses are available.

(4) The trustees, the affected alumni associations, or the affected auxiliary organizations shall provide at least two alternative cost-free means for alumni to communicate their privacy choices, such as calling a toll-free telephone number or using electronic means. The trustees, the alumni association, or the auxiliary organization shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choice, including the toll-free telephone or facsimile number or Internet Web site address that may be used, if those means of communication are offered.

(5) (A) An alumnus may direct at any time that his or her name, address, and electronic mail address not be disclosed. The trustees, the affected alumni association, or the affected auxiliary organization shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and electronic mail address within 45 days of receipt by the trustees, the alumni association, or the auxiliary organization. When an alumnus directs that his or her name, address, and electronic mail address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) Nothing in this subdivision shall prohibit the disclosure of the name, address, and electronic mail address of an alumnus as allowed by other applicable provisions of state law.

(6) The trustees, or the affected alumni association or the affected auxiliary organization, may provide a joint notice from the trustees or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the trustees and the alumni association or associations or auxiliary organization or organizations participating in the joint notice.

(d) As used in this section, "auxiliary organization" has the same meaning as set forth in Section 89901.

(e) This section shall not be construed to authorize the release of any social security numbers.

SEC. 2. Section 89090.3 of the Education Code is repealed.

SEC. 3. Section 89090.5 of the Education Code is repealed.

SEC. 4. Section 92630 of the Education Code is amended to read:

92630. (a) The regents and alumni associations may distribute the names, addresses, and electronic mail addresses of alumni of the University of California to a business as described in subdivision (b) in order to accomplish any or all of the following:

- (1) To provide those persons with informational materials relating to the university or college and its programs and activities.
- (2) To provide those persons, the regents, and the alumni associations with commercial opportunities that provide a benefit to those persons, or to the regents or the alumni associations.
- (3) To promote and support the educational mission of the university, the regents, or the alumni associations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The regents or the alumni associations have a written agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the University of California retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the regents or the affected alumni association unless and until the mailing conspicuously identifies the university or the alumni association as associated with the business described in the mailing.

(B) If an affinity partner, as defined in Section 4054.6 of the Financial Code, sends any message to any electronic mail address obtained pursuant to this section, that message shall include at least both of the following:

- (i) The identity of the sender of the message.
- (ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The regents or an alumni association shall not disclose to, or share a consumer's nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the consumer pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and electronic mail addresses does not include the names, addresses, and electronic mail addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the regents or an alumni association not to disclose their names, addresses, or electronic mail addresses.

(4) No information regarding either of the following is disclosed:

(A) The current students of the University of California.

(B) An alumnus who, as a student of a campus of the University of California, indicated that, pursuant to the federal Family Educational Rights and Privacy Act (Public Law 93-380), he or she did not wish his or her name, address, and electronic mail address to be disclosed.

(c) (1) The regents or the affected alumni association shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, shall be provided by the regents or the alumni association to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the regents and the alumni association regarding the sharing of his or her name, address, and electronic mail address:

(A) The form uses the title "IMPORTANT PRIVACY CHOICE" and the header, if applicable, as follows: "Restrict Information Sharing With Affinity Partners."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form may be provided as a separate document, incorporated into another communication piece intended for the target audience, or through a link to the form located on the Internet Web site of the regents, the affected alumni association, or the affected auxiliary organization. If the form is provided through a link to an Internet Web page, it shall be accompanied by the title "IMPORTANT PRIVACY CHOICE" and a clear and concise description of the choice that can be

made by accessing the form. This requirement may be met by using text materially similar to the first paragraph of the form set forth in paragraph (2).

- (D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.
- (E) The form is designed to call attention to the nature and significance of the information in the document.
- (F) The form presents information in clear and concise sentences, paragraphs, and sections.
- (G) The form uses short explanatory sentences (an average of 15 to 20 words) or bullet lists whenever possible.
- (H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.
- (I) The form avoids explanations that are imprecise and readily subject to different interpretations.
- (J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say "NO," we may share your name, address, and electronic mail address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

() NO, please do not share my name, address, and electronic mail address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and electronic mail address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

- (1) Call this toll-free telephone number: (xxx-xxx-xxxx).
- (2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.
- (3) Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

Name:

Address:

Signature:

(3) (A) The regents or the affected alumni association shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and electronic mail addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B) The form shall be provided to alumni in each of the following communications:

(i) The solicitation to students, upon their graduation, from the regents or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.

(iv) A one-time mailing to all alumni on the university or college mailing list as of January 1, 2006.

(v) An annual electronic communication to those alumni for whom electronic mail addresses are available.

(4) The regents or the affected alumni associations shall provide at least two alternative cost-free means for alumni to communicate their privacy choice, such as calling a toll-free telephone number, or using electronic means. The regents or the alumni association shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choices, including the toll-free telephone or facsimile number or Internet Web site address that may be used, if those means of communication are offered.

(5) (A) An alumnus may direct at any time that his or her name, address, and electronic mail address not be disclosed. The regents or the affected alumni association shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and electronic mail address within 45 days of receipt by the regents or the alumni association. When an alumnus directs that his or her name, address, or electronic mail address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) Nothing in this subdivision shall prohibit the disclosure of the name, address, or electronic mail address of an alumnus as allowed by other applicable provisions of state law.

(6) The regents or the affected alumni association may provide a joint notice from the regents or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the regents and the alumni association or associations participating in the joint notice.

(d) This section shall not be construed to authorize the release of any social security numbers.

SEC. 5. Section 92630.3 of the Education Code is repealed.

SEC. 6. Section 92630.9 of the Education Code is repealed.