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**AB-21 Public postsecondary education: Access to Higher Education for Every Student.** (2017-2018)

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Date Published: 10/05/2017 09:00 PM

**Assembly Bill No. 21**

**CHAPTER 488**

An act to add Article 11 (commencing with Section 66093) to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, relating to public postsecondary education.

[ Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 21, Kalra. Public postsecondary education: Access to Higher Education for Every Student.

(1) Existing law establishes the California State University, under the administration of the Trustees of the California State University; the University of California, under the administration of the Regents of the University of California; the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges; and independent institutions of higher education as the 4 segments of postsecondary education in this state.

Existing provisions of the Donahoe Higher Education Act set forth the missions and functions of these 4 postsecondary educational segments. No provision of the Donahoe Higher Education Act applies to the University of California except to the extent that the regents, by appropriate resolution, make that provision applicable.

This bill would express findings and declarations of the Legislature relating to the possible impacts on public postsecondary educational institutions in this state of changes in federal immigration policies and enforcement.

The bill would add to the Donahoe Higher Education Act provisions that would require the Trustees of the California State University, the governing boards of community college districts, and independent institutions of higher education that are qualifying institutions for purposes of the Cal Grant Program, and would request the regents, to the fullest extent consistent with state and federal law, to: refrain from disclosing personal information concerning students, faculty, and staff, except under specified circumstances; advise all students, faculty, and staff to notify the office of the chancellor or president, or his or her designee, as soon as possible, if he or she is advised that an immigration officer, as defined, is expected to enter, or has entered, the campus to execute a federal immigration order; notify, as soon as possible, the emergency contact of a student, faculty, or staff person if there is reason to suspect that the person has been taken into custody as the result of an immigration enforcement action; comply with a request from an immigration officer for access to nonpublic areas of the campus only upon presentation of a judicial warrant, except as specified; advise all students, faculty, and staff responding to or having contact with an immigration officer executing a federal immigration order, to promptly refer the entity or individual to the office of the chancellor or president, or his or her designee, for purposes of verifying the legality of any warrant, court order, or subpoena; designate a staff person to serve as a point of contact for those who may be subject to immigration actions, as specified; maintain a contact list of legal services providers who provide legal immigration representation, and provide it free of charge to any and all students who request it; adopt and implement, by March 1, 2019, the model policy developed by the Attorney General or an equivalent policy pursuant to a specified statute, limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law, as specified; post on its Internet Web site, and provide via email quarterly or each semester to all students, faculty, and

staff, and update as often as is necessary, a copy of the policy referenced above, and guidance informing them of their rights under state and federal immigration laws and how to respond to a federal immigration action or order; and ensure that certain benefits and services provided to undocumented students are continued in the event that they are subject to a federal immigration order.

Because this bill would create new duties for community college districts, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

**SECTION 1.** Article 11 (commencing with Section 66093) is added to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, to read:

### **Article 11. Access to Higher Education for Every Student**

**66093.** (a) The Legislature finds and declares all of the following:

(1) California's colleges and universities have traditionally been beacons of free thought that challenge students in a peaceful, safe environment. Its institutions of higher education have always been of great pride to the State of California.

(2) With great risks presented by changes to immigration policies and enforcement at the federal level, it is more important than ever to work to protect the students, faculty, staff, and the public, and ensure that, regardless of their immigration status, they can continue to take advantage of the education to which they are entitled, and are free from intimidation or loss of access to resources and programs that other students enjoy.

(3) It is imperative that California put necessary protections in place, and show it will take the necessary steps to ensure that the state's students, faculty, staff, and the public have every opportunity to continue their education without fear or undue risk.

(4) In doing so, California reaffirms the principles that the attainment of education for the betterment of the individual and the community is paramount, regardless of one's immigration status. It is in the country's best interests, as a nation of immigrants, which has benefited greatly from immigrants of all walks and backgrounds, to ensure that those who pursue educational and academic growth may further contribute to the productivity of this great state and nation.

(b) Therefore, it is the intent of the Legislature to enact legislation to enact the policies set forth in Section 66093.3 to ensure that California's public and private institutions of higher education strive to foster a campus community that is safe, welcoming for all, and provides access to services and supports for all students, faculty, and staff regardless of their immigration status.

**66093.3.** The Trustees of the California State University, the governing board of each community college district in the state, and each independent institution of higher education that is a qualifying institution as defined in subdivision (l) of Section 69432.7, shall, and the Regents of the University of California are requested to, do all of the following to the fullest extent consistent with state and federal law:

(a) Refrain from disclosing personal information about students, faculty, and staff except: (1) with the consent of the person identified, or if the person is under 18 years of age, with the consent of the parent or guardian of the person identified; (2) as may legally be disclosed under state and federal privacy laws; (3) for the programmatic purpose for which the information was obtained; (4) as part of a directory that does not include residence addresses or individual persons' course schedules and that the person has not elected to opt out of; or (5) in response to a judicial warrant, court order, or subpoena.

(b) Advise all students, faculty, and staff to notify the office of the chancellor or president, or his or her designee, as soon as possible, if he or she is advised that an immigration officer is expected to enter, will enter, or has entered the campus to execute a federal immigration order.

(c) If there is reason to suspect that a student, faculty, or staff person has been taken into custody as a result of an immigration enforcement action, the college or university, as soon as possible, shall notify the person's emergency contact that the person has been taken into custody.

(d) Comply with a request from an immigration officer for access to nonpublic areas of the campus only upon presentation of a judicial warrant. This subdivision shall not apply to an immigration officer's request for access or information related to the

operation of international student, staff, or faculty programs, employment verification efforts, or other nonenforcement activities.

(e) Advise all students, faculty, and staff responding to or having contact with a an immigration officer executing a federal immigration order, to refer the entity or individual to the office of the chancellor or president, or his or her designee, for purposes of verifying the legality of any warrant, court order, or subpoena.

(f) Designate a staff person to serve as a point of contact for any student, faculty, or staff person who may or could be subject to an immigration order or inquiry on campus. Unless the disclosure is permitted by state and federal education privacy law, faculty and staff persons shall be prohibited from discussing the personal information, including immigration status information, of any student, faculty, or staff person with anyone, or revealing that personal information to anyone. Nothing in this subdivision shall be construed to require a college or university to hire staff to fulfill the requirements of this subdivision.

(g) Maintain a contact list of legal services providers who provide legal immigration representation, and provide it free of charge to any and all students who request it. The list shall include, but not necessarily be limited to, the organization's name and contact number, email address, and office address.

(h) Adopt and implement, by March 1, 2019, the model policy developed by the Attorney General or an equivalent policy pursuant to the California Values Act (Chapter 17.25 (commencing with Section 7284) of Division 7 of Title 1 of the Government Code), limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law.

(i) (1) Post on its Internet Web site in a conspicuous location, and provide via email quarterly or each semester to all students, faculty, and staff:

(A) A copy of the policy adopted pursuant to subdivision (h).

(B) Guidance informing them of their rights under state and federal immigration laws and how to respond to a federal immigration action or order.

(2) Update the information posted on its Internet Web site pursuant to paragraph (1) as often as is necessary to reflect any changes to federal and state immigration laws and university or college policies and procedures.

(j) In the event that an undocumented student is subject to a federal immigration order, ensure that both of the following occur:

(1) In the event that an undocumented student is detained, deported, or is unable to attend to his or her academic requirements due to the actions of an immigration officer in relation to a federal immigration order, the college or university shall make all reasonable efforts to assist the student in retaining any eligibility for financial aid, fellowship stipends, exemption from nonresident tuition fees, funding for research or other educational projects, housing stipends or services, or other benefits he or she has been awarded or received, and permit the student to be reenrolled if and when the student is able to return to the college or university. It is the intent of the Legislature that, in implementing this paragraph, California colleges and universities make reasonable and good-faith efforts to provide for a seamless transition in a student's reenrollment and reacquisition of campus services and supports.

(2) That staff is available to assist, in a sensitive manner, undocumented students, and other students, faculty, and staff who may be subject to a federal immigration order or inquiry, or who may face similar issues, and whose education or employment is at risk because of federal immigration actions.

(k) For purposes of this article, "immigration officer" means any state, local, or federal law enforcement officer who is seeking to enforce immigration law.

**SEC. 2.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.