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AB-1313 Higher education: prohibited debt collection practices. (2019-2020)

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Assembly Bill No. 1313

CHAPTER 518

An act to add Title 1.6C.7 (commencing with Section 1788.90) to Part 4 of Division 3 of the Civil Code, and to amend Sections 66022 and 76225 of the Education Code, relating to student debts.

[Approved by Governor October 04, 2019. Filed with Secretary of State October 04, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1313, Luz Rivas. Higher education: prohibited debt collection practices.

Existing law, the Donahoe Higher Education Act, requires public higher education entities to adopt regulations to withhold institutional services, including the withholding of transcripts, upon notice to students that they are in default of their loans.

This bill would, notwithstanding those provisions, prohibit a school, as defined, from refusing to provide a transcript for a current or former student on the grounds that the student owes a debt, conditioning the provision of a transcript on the payment of a debt, charging a higher fee for obtaining a transcript or providing less favorable treatment of a transcript request because a student owes a debt, or using a transcript issuance as a tool for debt collection, as specified.

Because this bill would impose new duties on community colleges, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Title 1.6C.7 (commencing with Section 1788.90) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6C.7. Educational Debt Collection Practices

1788.90. This title shall be known, and may be cited, as the Educational Debt Collection Practices Act.

1788.91. The Legislature finds and declares all of the following:

(a) Schools and colleges have threatened to withhold transcripts from students as a debt collection tactic. The practice can cause severe hardship by preventing students from pursuing educational and career opportunities, and it is therefore unfair and contrary

to public policy. Moreover, the practice is counterproductive as it may further delay the payment of the debt by creating obstacles to student employment.

(b) It is the purpose of this title to prohibit schools from interfering with student educational and career opportunity by the withholding of transcripts.

1788.92. For purposes of this title, the following terms shall have the following meanings:

(a) "School" means any public or private postsecondary school, or any public or private entity, responsible for providing transcripts to current or former students of a school.

(b) "Debt" means 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.

1788.93. Notwithstanding any provision of law, a school shall not do any of the following:

(a) Refuse to provide a transcript for a current or former student on the grounds that the student owes a 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 a debt.

(d) Use transcript issuance as a tool for debt collection.

SEC. 2. Section 66022 of the Education Code is amended to read:

66022. (a) The governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing at the student's or former student's last known address that they are in default on a loan or loans under the Federal Family Education Loan Program.

"Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(b) (1) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the governing board of the community college district, the Trustees of the California State University, the Regents of the University of California, or the Board of Directors of the Hastings College of the Law, as appropriate, or to the Student Aid Commission, or both the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(A) The provision of grades.

(B) The provision of diplomas.

(2) The adopted regulations shall not include the withholding of registration privileges or transcripts.

(c) When it has been determined that an individual is in default on a loan or loans specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) This section shall not impose any requirement upon the University of California or the Hastings College of the Law unless the Regents of the University of California or the Board of Directors of the Hastings College of the Law, respectively, by resolution, make this section applicable.

(e) Guarantors, or those who act as their agents or act under their control, who provide information to postsecondary educational institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the postsecondary educational institution by the guarantors, their agents, or those acting under the control of the guarantors.

SEC. 3. Section 76225 of the Education Code is amended to read:

76225. 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. Any community college, college, or university making a transfer of these records shall notify the student of the student's right to receive a copy of the record and the student's right to a hearing to challenge the content of the record.

The board of governors may adopt rules and regulations concerning transfer of these records to, from, or between colleges under its jurisdiction.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.