

Date of Hearing: June 20, 2017

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

HR 35 (Rubio) – As Introduced May 1, 2017

SUBJECT: the University of California.

SUMMARY: Requests that the University of California (UC) protect and support all of its students, faculty, and staff, and consider supportive housing options for those who are at risk of being negatively impacted by Executive Orders issued by the Trump Administration relating to immigration. Specifically, **this resolution:**

- 1) Makes numerous declarations and findings, including, but not limited to:
 - a) Chapter 814 of the Statutes of 2001 allows long-term California residents and local California high school graduates, regardless of their citizenship status, to pay in-state tuition;
 - b) California is home to over 2.6 million undocumented immigrants;
 - c) Students at UC campuses across the state are undocumented or have temporary visas issued by the federal government providing them with the ability to work legally; and,
 - d) The UC is the largest employer in the State of California, which makes it imperative that undocumented UC students, faculty, and staff are protected.
- 2) Requests the UC to do all of the following:
 - a) Maintain in-state tuition, and nonemployment payments through scholarships, fellowships, and grants to benefit undocumented students aspiring to achieve their higher education goals;
 - b) Maintain funding for undocumented student support resources, and financially support all undocumented students in good academic standing across its 10 campuses, throughout the 45th President of the United States' term;
 - c) Protect and support all of its students, faculty, and staff, and consider supportive housing options for those who are at risk of being negatively impacted by Executive Orders issued by the 45th President of the United States relating to immigration; and,
 - d) Take concrete steps to protect and support its undocumented and immigrant students, faculty, and staff, and stand up to the 45th President of the United States' fearmongering.

EXISTING LAW:

Federal law.

On June 15, 2012, the Secretary of Homeland Security, under the direction of President Obama, announced the Deferred Action for Childhood Arrivals (DACA) policy, authorizing certain people who came to the United States as children and meet several guidelines to request

consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

Individuals may request consideration of DACA if they meet all of the following requirements:

- a) Were under the age of 31 as of June 15, 2012;
 - b) Came to the United States before their 16th birthday;
 - c) Have continuously resided in the United States since June 15, 2007, up to the present time;
 - d) Were physically present in the United States on June 15, 2012, and at the time of making the request for consideration of deferred action;
 - e) Had no lawful status on June 15, 2012, meaning never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole obtained prior to June 15, 2012, that had expired as of June 15, 2012;
 - f) Currently in school, have graduated or obtained a certificate of completion from high school, have obtained a General Educational Development certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and,
 - g) Have not been convicted of a felony, a significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.
- 1) Provides that any authorized immigration officer may at any time issue Immigration Detainer-Notice of Action, to any other federal, state, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department of Homeland Security (DHS) seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the DHS, prior to release of the alien, in order for the DHS to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible (8 Code of Federal Regulations (CFR) Section 287.7(a)).
 - 2) States that upon a determination by the DHS to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the DHS (8 CFR Section 287.7(d)).
 - 3) Authorizes the Secretary of Homeland Security under the 287(g) program to enter into agreements that delegate immigration powers to local police. The negotiated agreements between federal Immigration and Customs Enforcement (ICE) and the local police are documented in memorandum of agreements (8 United States Code (U.S.C.) Section 1357(g)).

- 4) States that notwithstanding any other provision of Federal, State or local law, a Federal, State or local government entity or official may not prohibit, or in any way restrict any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service (INS) information regarding the citizenship or immigration status, lawful or unlawful of any individual (8 U.S.C. Section 1373(a)).
- 5) States that notwithstanding any other provision of Federal, State or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the INS information regarding the immigration status, lawful or unlawful, of an alien in the United States (8 U.S.C. Section 1644).
- 6) Provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (U.S.C. 14th Amendment).

State law.

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the UC, California State University, and California Community Colleges; and, defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education (Education Code (EC) Section 66010, et seq.).
- 2) Grants the UC Regents regulatory authority over the UC (EC Section 92440, et seq.).
- 3) Provides that a law enforcement official has the discretion to cooperate with federal immigration officials by detaining an individual on the basis of an immigration hold after that individual becomes eligible for release from custody only if the continued detention of the individual on the basis of the immigration hold would not violate any federal, state, or local law, or any local policy and only under specified circumstances (Government Code (GOV) Section 7282.5).
- 4) Provides that, before any interview between ICE and an individual in local law enforcement custody regarding civil violations, law enforcement must provide the individual with specified information, and requires specified notification to the individual if law enforcement intends to comply with an ICE hold or notify ICE that the individual is being released (GOV Section 7283.1).

FISCAL EFFECT: None.

COMMENTS: *Background.* The 45th President of the United States has issued Executive Orders in the span of six months that, in part: 1) aim to greatly increase the number of immigration officials in the United States; 2) expand the population of Californians that could be subject to deportation; and, 3) ban United States travel to/from specified countries.

Purpose of this resolution. According to the author, this resolution seeks to demonstrate, "the Assembly's support for undocumented and immigrant communities who work, live, and study at University of California campuses across the state."

The author contends that under current UC Policies Applying to Campus Activities Organizations and Students (PACAOS), personally identifiable information may not be disclosed to anyone without the prior consent of the student to whom the information pertains, other than the following parties: campus and UC officials, authorized federal and state representatives, judicial order, and law enforcement.

The author states, "Protections under PACAOS would not protect personally identifiable information if requested by a federal agent acting on immigration executive orders."

This measure encourages the UC to specifically create and implement policies and procedures for safeguarding undocumented and immigrant students' personally identifiable information. Additionally, this resolution encourages UC to have comprehensive housing options available for undocumented and international students who may be negatively affected by an immigration travel ban.

Current practices by the UC. The UC welcomes and supports students without regard to their immigration status. The UC recently issued its statement of principles reaffirming its commitment to vigorously protect the privacy and civil rights of all UC undocumented students and all members of their community.

Many UC campuses are working to empower faculty and staff with the knowledge and skills required to create safe spaces for undocumented students. For instance, the systemwide UndocuAlly program trains faculty and staff to understand the history, legislation, and current and future realities of undocumented students. Every UC campus has at least one person on staff that can answer the questions of its undocumented students and provide guidance. Additionally, the UC continues to remind their students that their privacy is protected by law and that regardless of who they approach on campus, their immigration status will remain confidential.

Related legislation. Several legislative measures are moving through the process with varying ways of addressing on-going immigration and DACA concerns:

- 1) AB 21 (Kalra), which is pending a hearing in the Senate Education Committee, in part, establishes various policies and actions to be implemented by institutions of higher education in California that safeguard against immigration enforcement activities on campuses.
- 2) AB 291 (Chiu, et al.), which is pending a hearing in the Senate Judiciary Committee, in part, enacts the Immigrant Tenant Protection Act of 2017, to establish various protections and safeguards against the unauthorized disclosure of tenants' immigration or citizenship status to federal immigration authorities or other parties, as well as potential harassment, retaliation, or discrimination against tenants based on their immigration or citizenship status, or perceived immigration or citizenship status.
- 3) SB 6 (Hueso), which is pending a hearing in the Assembly Judiciary Committee, in part, appropriates \$12 million to the California Department of Social Services (CDSS) to establish the Due Process for All Act to provide legal services to individuals facing deportation; and, would authorize CDSS to contract with qualified nonprofit legal services organizations and nonprofit agencies to implement the act.
- 4) SB 31 (Lara), which is pending a hearing in the Assembly Appropriations Committee, in part, directs California state and local governments to refrain from initiating, participating in,

or assisting with any program to create a religious list, registry, or database, or using information about individuals' national origin or ethnicity to achieve the same basic purpose.

- 5) SB 54 (De León), which is pending a hearing in the Assembly Judiciary Committee, in part, places certain restrictions on state and local government entities in their interactions with federal immigration authorities.

REGISTERED SUPPORT / OPPOSITION:

Support

La Raza Law Student Association at UC Davis School of Law (sponsor)

Opposition

None on file

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