

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1313 (Luz Rivas) – As Introduced February 22, 2019

**SUBJECT:** Higher education: prohibited debt collection practices

**SUMMARY:** Enacts the Educational Debt Collection Practices Act to prohibit any postsecondary educational institution from withholding a student's request for a transcript because that student owes money to the institution. Specifically, **this bill**:

- 1) Prohibits any public or private postsecondary educational institution, or any entity responsible for providing a school's transcripts to students, from doing any of the following:
  - a) Refusing to provide a transcript to a current or former student on the grounds that the student owes a debt to the school;
  - b) Conditioning the provision of a transcript on the payment of a debt, other than a fee charged to provide the transcript;
  - c) Charging a higher fee for obtaining a transcript, or provide less favorable treatment to a transcript request, because a student owes a debt; or
  - d) Using transcript issuance as a tool for debt collection.
- 2) Deletes provisions allowing regulations adopted by the University of California (UC), Hastings College of the Law, the California State University (CSU), and the California Community Colleges (CCC) to withhold providing transcripts to students who are in default of a loan under the Federal Family Education Loan (FFEL) program. (The FFEL program was replaced by the Federal Direct Student Loan Program in 2010.)

**EXISTING LAW:**

- 1) Regulates the practice of debt collection and the conduct of debt collectors under the Rosenthal Fair Debt Collection Practices Act by prohibiting deceptive, dishonest, unfair, and unreasonable practices. (Title 1.6C of Part 4 of Division 3 of the Civil Code, commencing with Section 1788.)
- 2) Stipulates that, 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. However, the community college, college, or university from which the student is transferring may notify the student that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college, or university. (EC Sect. 76225.)
- 3) Requires the governing boards of UC, Hastings, CSU and the CCC to adopt regulations providing for the withholding of institutional services from students or former students that they are in default, as defined, under the FFEL Program. The services that may be withheld

from the student include the provision of grades and transcripts, but not the withholding of registration privileges. (Education Code (EC) Section 66022.)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Purpose.* According to the author, “The Department of Justice has documented instances where schools and colleges have threatened to withhold transcripts from students as a debt collection tactic. Given the growing cost of higher education and high costs of living, students struggle to pay off debts. The problem with withholding transcripts is that it can be a barrier to a student getting a job or license, or furthering their education at another institution, thereby potentially leading the student into a greater cycle of debt.

“AB 1313 will prohibit any higher education institution from withholding transcripts for the purposes of debt collection. This is a practice that goes against California’s values and protects educational and occupational opportunities for our college students.”

AB 1313 is sponsored by the Attorney General, who maintains that the withholding of transcripts is an undesirable way to collect debt from students, wherever it is authorized or utilized, because it potentially handcuffs students in pursuing educational and career opportunities.

*Transcript Withholding.* There is currently no federal law regarding transcript withholding. The federal Family Education Rights and Privacy Act (FERPA) does require schools to make unofficial transcripts, and other student records, available for inspection to a student or their parents. Official transcripts, which are often required for getting a job or transferring institutions, are essentially unregulated at the federal level.

In the 1990s, the federal Department of Education issued guidance encouraging the withholding of academic transcripts in the context of obtaining repayment of federal student loans, though the department recognized such action is under an institution’s authority. The department’s website currently states that one of the consequences of being in default on a federal loan is that, “Your school may withhold your academic transcript until your defaulted student loan is satisfied. The academic transcript is the property of the school, and it is the school’s decision—not the U.S. Department of Education’s or your loan holder’s—whether to release the transcript to you.”

While this bill addresses unpaid debt that students owe to the schools, as opposed to loan repayments owed the federal government, schools can apply the same means to collect such debt. State law is silent on this matter, with the exception of authority provided to colleges and universities to withhold releasing records, including transcripts, of transferring students who owe debts to the school. Curiously, this statute (see #2 above), though it applies to all college and universities within the state, is contained in the portion of the Education Code specifically governing the community colleges. (The Chancellor’s Office of the California Community Colleges has indicated to the committee staff that it does not have concerns with this bill.) The University of California (UC) and the California State University (CSU), have their own policies in this regard.

UC’s Policies Applying to Campus Activities, Organizations, and Students includes the following:

Requests to Forward Academic Records. University of California campuses may forward appropriate student records, including academic records, disciplinary records, and other student records, to other educational institutions in which a student seeks or intends to enroll, or is currently enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer. The campus will provide annual notification of this disclosure policy, or else a reasonable attempt will be made to provide notification to individual students about whom information is disclosed. *When students request that their academic records be forwarded to other institutions, students may be required to pay all fees and charges due the University before the records are forwarded.*

A CSU regulation allows the Chancellor to “authorize a president of a campus, or designee, to withhold permission to register, to use facilities for which a fee is authorized to be charged, to receive services, materials, food or merchandise, or any combination of the above from any person owing a debt...”

*Segment Concerns.* While not taking a position on the bill at this time, the segments have expressed a concern with regard to students transferring to another school – a situation where the school provides an official transcript for the exiting student to the student's new school. Without the ability to withhold the transcript, as a method of debt collection, the student could move between colleges without paying their fees/debts at their time of exit, and the colleges would have to either attempt more costly means of debt collection or write-off that debt.

*Rosenthal Fair Debt Collection Practices Act.* The Rosenthal Fair Debt Collection Practices Act regulates the practice of debt collection and the conduct of debt collectors in the State of California. It provides consumer protections by regulating the form and content of communications of debt collectors with debtors when they attempt to recover debts. In order to prevent predatory or coercive debt collection activities, the law prohibits the use of practices that are deceptive, dishonest, unfair, and unreasonable. For example, the Act prohibits debt collectors from making false claims to consumers about their debt, such as implying that non-payment will result in arrest or that failure to pay one's debts could lead to the accusation that one has committed a crime.

*Recommended Amendment.* The conforming amendment below would remove any college's authority to withhold the records, including the transcript, of a transferring student owing a debt to the school. *Amend EC Sect. 76225 as follows:*

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. ~~However, the community college, college, or university from which the student is transferring may notify the student that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college, or university.~~ Any community college, college, or university making a transfer of these records shall notify the student of his or her right to receive a copy of the record and his or her right 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.

The author has indicated to the committee that she concurs with this amendment, however, for timing purposes, the amendment will be processed in the Appropriations Committee.

*Prior Legislation.* AB 1974 (Gonzalez), Chapter 577, Statutes of 2018, in part prohibited K-12 schools from withholding grades or transcripts from pupils or former pupils because of a debt owed to the school.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Department of Justice  
Student Borrower Protection Center

**Opposition**

None on file.

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