

Date of Hearing: January 9, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION  
Mike Fong, Chair  
AB 1160 (Pacheco) – **As Proposed to be Amended** January 9, 2024

**SUBJECT:** Protecting Students from Creditor Colleges Act

**SUMMARY:** Prohibits an institution of higher education, as defined, from taking specified actions, including, among other things, placing an enrollment or registration hold on a current or former student's account, on the grounds that the student owes an institutional debt, as defined. Requires the governing boards of institutions of higher education, and request the office of the President of the University of California (UC), to require each institution to report, every other year, specified information regarding the number and dollar amount of institutional debts at each institution. Specifically, **this bill:**

- 1) Specifies that, notwithstanding any other provision of law, a school shall not do any of the following:
  - a) Refuse to provide a transcript or diploma for a current or former student on the grounds that the student owes a debt;
  - b) Condition the provision of a transcript or diploma, on the payment of a debt, other than a fee charged to provide the transcript or diploma;
  - c) Charge a higher fee for obtaining a transcript or diploma, provide less favorable treatment of a transcript or diploma request because a student owes a debt; and,
  - d) Use transcript or diploma issuance as a tool for debt collection.
- 2) Requires that regulations created pursuant to providing for the withholding of institutional services from students or former students who have been notified in writing that they are in default on a loan or loans, as specified, will specify the services to be withheld from the student and may include, but are not limited to, the provision of grades.
  - a) The adopted regulations pursuant to 2) above will not include the withholding of registration privileges, transcripts, conferring a degree or diploma to a student who has satisfied all academic requirements, or the issuance of documentation of such degree or certificate.
- 3) Creates the Protecting Students from Creditor Colleges Act (Act), which specifies that:
  - a) Notwithstanding any other law, an institution of higher education will not place an enrollment or registration hold on a current or former student's account, charge a higher tuition or fee, provide less favorable treatment related to reenrollment or registration for courses, fail to confer a degree to a student who has satisfied all academic requirements for their course of study, or otherwise prevent a current or former student from reenrolling, registering, or graduating at the institution of higher education on the grounds that the student owes an institutional debt;

- i) Nothing in the Act, as specified, prohibits an institution of higher education from withholding a degree or placing an enrollment or registration hold or otherwise preventing a student from taking classes for violating any academic code of conduct or school honor code, failing to maintain satisfactory academic progress or on other similar and permissible bases; and.
  - ii) Nothing in the Act, as specified, prohibits an institution of higher education from administering “drop for non-payment” or similar policies that disenroll a student from an academic term due to failure to pay tuition or fees for that same term, provided that any institutional debt that accrues as result of such non-payment may not be the basis for any future adverse action against the student, as prohibited pursuant to paragraph (a) of this subdivision.
- b) Institutions of higher education will implement any “drop for non-payment” disenrollments prior to disbursing financial aid refunds or electronic transfers, and students shall not otherwise incur any institutional debt for tuition or fees associated with the term when dropped for non-payment;
- c) Notwithstanding any other law, an institution of higher education will establish a written policy defining standards and practices for the collection of institutional debt, as specified, and will be made publicly accessible on its website;
- d) Notwithstanding any other law, an institution of higher education shall not do the following when collecting on an institutional debt:
- i) Engage a third-party debt collector that is not licensed, as specified;
  - ii) Engage a third-party debt collector before 180 days has passed from the first communication from the institution of higher education requesting payment, and the institution of higher education has made all reasonable efforts, in accordance with its written policy, to communicate with the current or former student; and,
  - iii) Engage a third-party debt collector to collect on an institutional debt without a written agreement with the debt collector that requires the debt collector to comply with the institution of higher education’s written debt collection policy, as specified.
- e) An institution of higher education will make all reasonable efforts, in accordance with its written policy, to contact a current or former student to notify them of an outstanding institutional debt;
- f) Before assigning an institutional debt to a third-party debt collector, an institution of higher education shall send a notice to the current or former student with all the following information:
- i) A written itemization of charges that comprise the institutional debt that is being assigned to collections;

- ii) The date or dates the student or former student was originally sent a notice about the institutional debt;
  - iii) The name of the entity to which the institutional debt is being assigned;
  - iv) The consequences of a defaulted institutional debt, including the potential of reporting adverse information on a credit report and risk of civil action; and,
  - v) How to submit a complaint with the Department of Financial Protection and Innovation and how to request assistance if they are subjected to abusive debt collection practices.
- g) No institution of higher education, or third-party debt collector will report adverse information to a consumer credit reporting agency or commence civil action against a student or former student for nonpayment of an institutional debt before 180 days after the first communication from the institution to the current or former student requesting payment;
- h) The Board of Governors (BOG) of the California Community Colleges (CCC) and the Trustees of the California State University (CSU) will, and the office of the President of the UC is requested to, require each public institution to report and each public institution is required to respond, beginning no later than July 1, 2025 and using the uniform format developed as specified, on biennial basis and not later than three months after the end of each public institution's fiscal year, all of the following information, as of the final day of the institution's previous fiscal year:
- i) The total number and dollar amount of institutional debts at each institution, including a breakdown of those considered current and past due;
  - ii) The total number and dollar amount of institutional debts subject to a payment plan at each institution, excluding tuition payment plans, and the payments that have been made pursuant to the plan;
  - iii) A breakdown of the total number and total dollar amount of institutional debts by each of the following categories:
    - (1) Dollar amount in increments of five hundred dollars (\$500);
    - (2) The age of the institutional debt in increments of one year; and,
    - (3) The gender and racial demographic of the students.
  - iv) The total number and dollar amount of institutional debts owed by Pell Grant-eligible current or former students;
  - v) A breakdown of the total number and dollar amount of institutional debts by declared major and degree type being sought;

- vi) A breakdown of the source of institutional debts by underlying expense type, including tuition, room and board, fines, and campus fees;
  - vii) The total number and dollar amount of institutional debts owed, in whole or in part, as the result of a current or former student's federal financial aid being returned to the federal government;
  - viii) A description of any policies related to administrative actions or account holds imposed on current or former students with an outstanding account due to an institutional debt;
  - ix) The number of students and accounts subject to an administrative hold at each institution;
  - x) The total number and dollar amount of institutional debts collected directly by the institution during the prior two fiscal years, without use of a third-party collection agency or the Franchise Tax Board;
  - xi) The total number and dollar amount of institutional debts assigned to third-party collection agencies during the prior two fiscal years;
  - xii) The total number and dollar amount collected on institutional debts through third-party collection agencies during the prior two fiscal years;
  - xiii) The number of institutional debts subject to collection through the Franchise Tax Board and the total dollar amount collected through the Franchise Tax Board during the prior two fiscal years;
  - xiv) The total number and dollar amount of institutional debts sold to third parties during the prior two fiscal years;
  - xv) The number and dollar amount of institutional debts that are the result of a loan made by the institution; and,
  - xvi) The number and dollar amount of institutional debts that are the result of a tuition payment plan offered by the institution.
- i) In coordination with the Commissioner of Financial Protection and Innovation, the BOG of the CCC Colleges and the Trustees of the CSU governing boards of institutions of higher education will, and the office of the President of the UC is requested to, no later than July 1, 2025, develop a uniform format for data collection and ensure data reporting is done in a timely manner.
  - j) The BOG of the CCC and the Trustees of the CSU will, governing boards of institutions of higher education shall, and the office of the President of the UC is requested to, report in a publicly accessible manner on their Internet websites the data compiled, as specified, across each campus on an annual basis.

- 4) Specifies that, notwithstanding any other law, for taxable years beginning on or after January 1, 2025, the Controller will not offset any amount due to a postsecondary institution from a current or former student that was incurred in their capacity as a student against any amount owing to that current or former student by a state agency.
- 5) Establishes that, 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 must be made as specified.
- 6) Specifies that the provisions of this bill are severable, and that if any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
- 7) Makes various findings and declarations.
- 8) Establishes the following definitions, as specified:
  - a) “School” means any public or private postsecondary school, or any public or private entity, responsible for providing transcripts or diplomas-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, or documentation of a degree;
  - c) “Diploma” means a certificate, or similar paper or electronic document, evidencing that a school has conferred a degree, certificate or similar qualification upon a student;
  - d) “Postsecondary institution” means any public or private postsecondary educational institution operating in the state, including its branch campuses and satellite locations, or distance education, and includes each California Community College District, the CSU, and, upon agreement by the Regents, the UC;
  - e) “Institution of higher education” or “institution” means any public or private postsecondary educational institution operating in the state, including its branch campuses and satellite locations or distance education, and each institution of “public higher education”, any “independent institutions of higher education”, and any private postsecondary educational institutions as specified;
  - f) “Institutional debt” means any money, obligation, claim, or sum, due or owing, or alleged to be due or owing, whether or not reduced to court judgment, from a student, that was incurred in their capacity as a student, to an institution of higher education. This does not include tuition, fees, room and board, or other cost of attendance for an academic term in which the student is actively enrolled or seeking enrollment; and,
  - g) “Degree” means a credential conferred by an institution to a student in recognition of the student’s satisfaction of all academic requirements associated with a course of study. This term shall include certificates, associate degrees, bachelor’s degrees, and advanced degrees.

**EXISTING LAW:**

- 1) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services. (Article IX, Section (9)(a) of the California Constitution)
- 2) Establishes the Donahoe Higher Education Act, setting forth the mission of the UC, CSU, and CCC. (Education Code (EDC) Section 66010, et seq.)
- 3) Confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees. (EDC Sections 66606 and 89500, et seq.)
- 4) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. (EDC Section 70900)
- 5) Requires the governing board of every community college district, the Trustees of the CSU, and, if appropriate resolutions are adopted, the Regents of UC and the Board of Directors of the College of the Law, San Francisco to adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing, as specified, that they are in default on a loan or loans under the Federal Family Education Loan Program, and requires the Student Aid Commission (Commission) to give notice of the default to all institutions through which the individual acquired the loan or loans. (EDC Section 66022)
- 6) 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. (Civil Code Section 1788, et al.)
- 7) Prohibits 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. (Civil Code Section 1788.90 et al.)
- 8) Authorizes the Controller, in their discretion, to offset any amount due to a state agency from a person or entity, against any amount owing to that person or entity, including any tax refund, by any state agency, except as specified. (Government Code Section 12419.5)

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose.* According to the author, “New research finds that this little-known type of student debt, called ‘institutional debt,’ has exploded in California since the onset of COVID-19, as students withdrew from California public colleges for economic, family, or health reasons. AB 1160 will protect students from the most harmful impacts of this debt and provide much-needed transparency on the growth and impact of this debt across our state. With the current enrollment crisis, it is important that we help students with removing barriers in attaining their higher education goals, maximize enrollment opportunities, and understand what else we must do to address the student debt crisis—including institutional debt—across California.”

*Background.* Long before the pandemic, institutional debt - debts owed by students directly to their schools - have created challenges to student access, persistence, and completion, and wreaks economic havoc on many of the most economically vulnerable students across California. The state first took action to address institutional debts by passing AB 1313 (Luz Rivas), Chapter 518, Statutes of 2019, which prohibited the withholding of transcripts by schools as a method of collecting on these debts.

According to the 2022 report *Creditor Colleges: Canceling Debts that Surged During COVID-19 for Low-Income Students*, the majority of institutional debt is incurred when a student unexpectedly withdraws from a course before the end of the term and their school is then required to return federal student aid—such as a Pell Grant and federal student loans—to the federal government. The schools then charge the amount of the returned funds to the student, effectively converting federal aid to debts that students owe directly to their school.

Over the course of the pandemic and as a result of widespread economic and public health related hardships, a record number of students were forced to withdraw from their courses. As a result, institutional debts increased and more than 750,000 low-income students owe more than \$390 million in debt to California public colleges.

Although schools can no longer withhold transcripts to collect these debts, they still burden students, preventing a student from re-enrollment and degree completion. Additionally, public schools can offset students’ public benefits and tax refunds as a method of collecting, and all schools can sue students in court to collect.

Since Pell Grants are awarded based on financial need, these debts almost exclusively impact low-income students - students who are historically more likely to be from racially marginalized communities. Additionally, institutional debt can also include smaller debts, such as overdue library charges, unpaid parking fees, and other administrative fees that can accumulate unknowingly by a student.

*Arguments in support.* The Student Borrower Protection Center, a co-sponsor, addressed the impact that federal Title IV funding returns have on low income students. Writing that “research suggests that institutional debt most commonly arises when students relying on the federal ‘Title IV federal aid programs, such as Pell Grants, withdraw from an academic program before they are able to complete. When a student withdraws early from school before completing a semester, a school must repay a portion of that student’s Title IV funds to the federal government using a formula proportional to the amount of class time the student completed— a federal government policy known as ‘Return to Title IV’. Most institutions - across all two-year, four year, and for-profit schools - created policies that then charge students for the amount of the Title IV aid

returned to the federal government as part of their refund policies, which creates a balance on their account.”

“These balances may be a few thousand dollars, for which the student should never have been responsible. Suddenly, students intending to pay off their education over time with loans and grants find themselves owing debts immediately due to their school... AB 1160 will help ensure that institutional debt no longer traps students in economic hardship, but instead will help students get back on track towards degree completion and realize the promise of economic mobility.”

The California State Student Association (CSSA), a co-sponsor, addressed the impact of the COVID-19 pandemic on institutional debt, writing that “institutional debt warrants consumer protection for students. Those burdened with outstanding debt face severe consequences, such as withheld degrees, denied re-enrollment, or being subjected to private collections through for-profit third-party debt collectors. These outcomes can ruin credit scores and hinder employment prospects. Since the pandemic, we have seen a staggering number of students struggling with institutional debt. Presently, over 750,000 low-income students owe more than \$390 million to California public colleges. AB 1160 is a critical and timely measure that ensures students can continue pursuing their degrees. The legislation aims to prevent students from being denied course registration or program re-enrollment solely due to outstanding institutional debts. This is particularly important for increasing enrollment numbers, as California faces a statewide enrollment crisis in higher education institutions. Supporting AB 1160 aligns with the broader objective of promoting accessibility, equity, and success in higher education for all students, which lies at the core of the CSU’s Graduation Initiative 2025.”

The UC Student Association (UCSA), a co-sponsor, noted the transparency that would come from AB 1160, writing that “Some institutional debts are incurred without students even realizing, and they may still have consequences such as being dropped from classes and having to re-enroll or re-apply for financial aid. For example, small charges such as a few dollars for a snack at the school coffee shop a student charges to their school account or a late fee for a library book they checked out are counted as institutional debt, and some schools automatically drop students from courses and thus revoke their financial aid if they have any existing institutional debt. This can cause the student to have to scramble after the deadline to enroll in new courses and get their financial aid back. This can also cause delays in degree completion and graduation. AB 1160 will prohibit institutions of higher education from barring a student from re-enrollment or withholding a degree simply because the student owes an institutional debt, thus removing harmful barriers to degree completion and addressing a component of the gap in retention and graduation rates faced by low-income students. AB 1160 also provides much-needed transparency on the growth and impact of institutional debt by requiring consistent data collection and reporting by institutions of higher education.”

*Arguments in opposition.* The Association of Independent California Colleges and Universities (AICCU) notes that AB 1160 would remove certain mechanisms, like enrollment holds, that campus believe are effective in compelling repayment. AICCU writes that “if this bill were passed, it would strip colleges of the mechanisms they utilize, when necessary, to compel students to make a payment on that debt or to work with their institution on alternative arrangements such as an in-house payment plan. They could request students do these things, but students would be under no obligation to do anything to address their debts owed to the



institution. Conceivably, the only option for institutions to compel former students to repay these debts would be to file lawsuits, which would likely be cost-prohibitive and impractical.”

The CSU Chancellor’s Office has raised concern regarding possible impacts to CSU’s operational funding, noting that “as a public state university system, the CSU receives approximately sixty percent of its operating budget from the state and the other forty percent from students’ tuition and student fees. AB 1160 therefore puts forty percent of the system’s operating budget at risk by removing all reasonable methods to collect outstanding student debts. Students would no longer have any incentive to pay, on time or at all, for the entirety of their enrollment with the university. If just one in ten students were to stop paying their tuition and fees, with no way for the institution to enforce payment, the immediate annual impact would be over \$300 million across the CSU system.”

AICCU and private for-profit colleges raised concerns about flexible payment options. AICCU wrote that “Institutional staff at our member institution can point to practices and examples of ways they try to work with students to address concerns about costs, changes in family financial situations, and balances owed. They frequently make repeated attempts to communicate with students about unpaid debts before acting. It is common practice for institutions to offer monthly or extended payment plans for tuition and/or housing expenses. However, these staff also indicate that while they can resolve some debt balances through simple communications, in some instances students are unresponsive if or until there are other actions taken that compel the student to respond. If this bill were to become law, many institutions would have to reconsider these flexible payment options and may move to require balances be paid in full prior to the start of the term to mitigate their increased risk of nonpayment by students due to the elimination of mechanisms through which they can effectively recover monies owed.”

The California Association of Private Postsecondary Schools (CAPPS) raised concern with the definition of “institutional debt” and potential incongruity with federal law, writing that “the non-payment incurred from the previous academic term is now a debt owed to the school, but the school must allow these students to continue their education irrespective of how much is owed from the previous term. And while mandated to allow this student to continue, the new fees owed to the school for the current academic term is NOT considered a debt. To bring this full circle, if the student drops out and/or continues to not pay for their education, the bill states in...’students shall not otherwise incur any institutional debt for tuition or fees associated with the term when dropped for non-payment.’ Again, our members are struggling to understand the current problem that warrants allowing students to attend an education while not paying, be treated equally as those who are paying, and then potentially have the school forgo any tuition/fee for a term the student is actively enrolled in. It should also be noted that every student must sign an enrollment agreement and other state and federal disclosures that clearly articulate the financial commitments associated with their education.”

*Committee Staff notes* that several loan companies wrote to register opposition to language from an earlier draft of amendments than those being proposed to be adopted. Staff understands that, as drafted, the major concerns of debt collectors have been satisfied.

*Prior legislation.* AB 1313 (Luz Rivas), Chapter 518, Statutes of 2019, establishes the Educational Debt Collection Practices Act and prohibits any public or private postsecondary school from withholding a transcript for a current or former student on the grounds that the student owes debt.

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**

American Federation of State, County and Municipal Employees, AFL-CIO  
California Competes  
California Low-income Consumer Coalition  
California State Student Association  
Coalition for Humane Immigrant Rights (CHIRLA)  
Compton Community College District  
Consumer Federation of California  
Consumer Reports  
Genup (generation Up)  
Housing and Economic Rights Advocates  
Improve Your Tomorrow, INC.  
John Burton Advocates for Youth  
Nextgen California  
Public Advocates  
Public Counsel  
Public Law Center  
San Francisco Rising  
Southern California College Attainment Network  
Student Borrower Protection Center  
Student Debt Crisis  
Student Debt Crisis Center  
Student Senate for California Community Colleges  
The Institute for College Access & Success  
Uaspire  
University of California Student Association  
Voices for Progress  
Western Center on Law and Poverty  
Young Invincibles.

**Opposition**

Apollo Education Group, INC. & its Subsidiaries University of Phoenix, Insight Schools & College for Financial Business  
Association of Independent California Colleges & Universities (AICCU)  
California Association of Collectors, INC  
California Association of Private Postsecondary Schools  
California Institute of The Arts  
California State University, Office of The Chancellor  
Individual Letters (3)  
Individual Letters (6)  
Norwood Associates, LLC

Receivables Management Association International  
The Master's University and Seminary  
Todd, Bremer & Lawson, INC.

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