

Kristen F. Soares
PRESIDENT



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April 12, 2017

The Honorable Jose Medina
Chair, Assembly Higher Education Committee
California State Assembly
California State Capitol, Room 4126
Sacramento, CA 95814

Dear Chair Medina:

On behalf of the Association of Independent California Colleges and Universities (AICCU), we must regretfully oppose Assembly Bill 888 by Assembly Member Low as currently drafted, given its impact on student privacy protections under the Family Educational Rights and Privacy Act (FERPA). We have a strong commitment to continued conversations with the author around these issues.

AICCU, and our 79 accredited, private, nonprofit colleges and universities have appreciated the time and attention Assembly Member Low has dedicated to issues associated with the LGBTQ community, as well as his personal efforts to learn more about our institutions. Like Mr. Low we are committed to the well-being of all our students; and like him we want to be as transparent as possible to families, students, communities, and elected officials. Unfortunately, AB 888 violates federal privacy laws and, if enacted, could jeopardize hundreds of millions of dollars in federal financial aid and other program funding for our students and institutions.

AB 888 requires our private, nonprofit universities to annually report student disciplinary actions, including expulsion rates aggregated by the institutional policy violated and disaggregated, for each policy violated, by the type of disciplinary action taken. The bill also requires our institutions to report whether (1) the disciplined students were Cal Grant recipients, (2) the disciplinary action was taken in connection with students who fit one or more of the categories enumerated in Section 11135 of the Government Code (which includes: sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation), and (3) if the institution has ever applied for, or is in receipt of, an exemption from Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.).

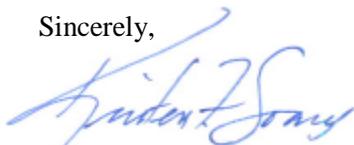
AICCU has been advised by legal experts that, given FERPA regulations and the size of our campuses, the small number of campus expulsions and an identification as to whether they are Cal Grant recipients or not would almost certainly lead to the identity of the student. This is a violation of FERPA, as we will not be able to protect the privacy of any identified student(s) under the bill's provisions. Ultimately, the United State Department of Education (USDE) has responsibility to determine whether FERPA has been violated. If they concur in our legal interpretation of the law and AB 888 reporting provisions, our campuses face the loss of all federal funds including financial aid for their students.

In addition to this significant issue, there are several provisions of the bill that need to be clarified, including the *definition of student categories*, which in many cases will result in duplicated counts, given students belong to more than one category, and a specific *definition for disciplinary action*. While neither addresses our core objection, we do want to call both to the attention of the author and committee.

We remain steadfast in our commitment to improving transparency at our colleges and universities. After last year's discussion about LGBTQ issues and our faith-based colleges, AICCU agreed to survey its member institutions to learn more about services, programs, and policies for its students, including LGBTQ students. In addition, AICCU is working with the University of California, Los Angeles (UCLA) Higher Education Research Institution (HERI), to have AICCU institutions participate in this year's Diverse Learning Environments survey which addresses issues regarding student perceptions regarding the institutional climate as well as campus practices. We believe this information, which is provided by students in a protected survey, will yield information on how their campus community is serving their needs so that each institution can respond to all their students' needs and issues.

We will be sharing the information from the campus climate surveys with the Legislature, so that we can continue working with Mr. Low, the committee, and others in making sure that our campuses remain safe, healthy environments for students, faculty and staff. In the meantime, we cannot endorse a measure that jeopardizes the privacy of all our students and federal student aid funding so critical to their success. We look forward to continuing conversations with the author around these concerns and how we can work together in the best interests of our students.

Sincerely,



Kristen F. Soares
President

cc: Assembly Member Evan Low
Members, Assembly Higher Education Committee
Jeanice Warden-Washington, Chief Consultant, Assembly Higher Education Committee
Katie Sperla, Consultant, Assembly Republican Caucus
AICCU Executive Committee Members
Rick Zbur, Executive Director, Equality California