
Little Hoover Commission

Hearing on Student Institutional Debt in California

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Written Testimony from:

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Dear Chair Nava, Vice-Chair Cannella, and esteemed Commissioners:

Thank you for holding this hearing and for the opportunity to testify today. My name is Dalié Jiménez and while I am here today in my personal capacity, I am a professor of law at the University of California, Irvine School of Law. I research and write in the areas of consumer law, bankruptcy, and co-direct the UC Student Loan Law Initiative, an academic center focused on student debt and the law.¹

My testimony today will address four areas. First, I will provide an overview of the legal framework surrounding student institutional debt. Second, I will describe how different collection pathways operate in California, including administrative holds, third-party debt collectors, and the Franchise Tax Board's Interagency Intercept Collection Program — and will share findings from research regarding serious misuse of the intercept program by private colleges. Third, I will offer my perspective on possible solutions for addressing institutional debt at the state level, including gaps in the data currently available and suggest what additional information the Commission might seek to develop a fuller picture of how institutional debt affects California students.

1. The Legal Framework of Institutional Debts

Student institutional debt in California arises from a wide range of sources. At the most mundane level, students may owe balances for overdue library fines, parking violations, unpaid housing charges, or tuition and fee balances that were never covered by financial aid in the first instance. These debts are governed by the terms of the enrollment or housing agreement, applicable institutional policy, and state law — and while individually they may be modest, in the aggregate they contribute meaningfully to the burden of institutional debt carried by California students. For any student living on the financial margin, even a

¹ See Dalié Jiménez, <https://www.law.uci.edu/faculty/full-time/jimenez/>.

relatively small unpaid balance can trigger collection activity, registration holds, and the downstream consequences that this Commission is examining today.

The largest source of institutional debt by dollar amount, however, is almost certainly the debt that results when a student who has received federal financial aid withdraws before completing a term — triggering the federal Return of Title IV Funds process.² It is this category of debt that I will focus on in the greatest detail, because it is where federal mandate, institutional discretion, and student vulnerability intersect most consequentially.

Federal financial aid under Title IV of the Higher Education Act creates a three-way financial arrangement. The student incurs charges for tuition, fees, and related costs. The institution receives Title IV funds disbursed on the student's behalf to cover those charges. Those funds may include Pell Grants, Federal Supplemental Educational Opportunity Grants, Direct Subsidized and Unsubsidized Loans, and Direct PLUS Loans. The federal government, for its part, retains a continuing interest in how those funds are used. So long as the student remains enrolled and completes the semester or quarter, the Title IV funds are considered earned, and the arrangement proceeds without complication. Difficulties arise, however, when a student withdraws before completing the period of enrollment, triggering a series of obligations that can leave the student indebted to the institution, the federal government, or both.

Federal law imposes a mandatory framework for the return of unearned Title IV funds when a recipient withdraws from an institution prior to completing more than sixty percent of a payment period or period of enrollment.³ Under Section 484B of the Higher Education Act, institutions must perform a prescribed calculation — commonly referred to as the Return of Title IV Funds or R2T4 calculation—to determine the percentage of aid the student earned based on the proportion of the payment period completed before withdrawal.⁴ The unearned portion must be returned to the Department of Education in a statutorily specified order of priority, beginning with unsubsidized Direct Loans, followed by subsidized Direct Loans, Direct PLUS Loans, Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, and other Title IV assistance.⁵ The institution must complete this return no later than forty-five days after determining that the student withdrew.⁶ Importantly, R2T4 is not a refund policy; it governs only the disposition of federal funds and operates independently of the institution's own refund or charge adjustment policies.

The interaction between R2T4 and institutional billing practices is where student debt most commonly originates. When an institution returns unearned Title IV funds to the federal government, the institutional charges that those funds had previously covered may remain

² See Charlie Eaton, Jonathan Glater, Laura Hamilton, and Dalié Jiménez, *Creditor Colleges: Canceling Debts that Surged During COVID-19 for Low-Income Students* (Mar. 2022), <https://protectborrowers.org/wp-content/uploads/2022/03/Creditor-Colleges.pdf>.

³ See Federal Student Aid, Withdrawals and the Return of Title IV Funds | 2021-2022 Federal Student Aid Handbook, <https://fsapartners.ed.gov/knowledge-center/fsa-handbook/2021-2022/vol5> [https://perma.cc/3MXX-JETX].

⁴ See 20 U.S.C. § 1091b, and its implementing regulations at 34 C.F.R. § 668.22.

⁵ *Id.* See also, e.g., Federal Student Aid, Return of Title IV Aid Worksheets, <https://fsapartners.ed.gov/knowledge-center/fsa-handbook/2024-2025/vol5/appx-appendix-return-title-iv-aid-worksheets>.

⁶ 20 U.S.C. § 1091b(b)(1).

on the student's account in whole or in part, depending on the institution's own refund policy. Federal law does not dictate what an institution may charge a withdrawing student; that question is left to institutional policy, the terms of the enrollment agreement, and applicable state law. An institution that maintains a generous refund schedule may reduce or eliminate charges for early withdrawal, thereby minimizing or extinguishing any resulting balance. Conversely, an institution that retains the full term's charges regardless of the withdrawal date may leave the student owing a substantial sum — the difference between what the institution returned to the federal government and what the institution's own policy permits the student to recover.⁷

Critically, while federal law is prescriptive with respect to the return of funds, it is largely silent on whether and how institutions must pursue collection of resulting student account balances. Institutions retain broad discretion in determining whether to collect outstanding debts, the methods they employ in doing so, and whether to offer accommodations such as payment plans, reduced settlements, or forgiveness.⁸ Common institutional practices include placing holds on academic transcripts and registration, referring delinquent accounts to third-party collection agencies, and, in some cases, pursuing legal action. These collection activities are subject to generally applicable consumer protection statutes — including the Fair Debt Collection Practices Act and the Rosenthal Act in California, and relevant state consumer protection and contract law — but no provision of the Higher Education Act compels an institution to pursue a withdrawing student for an unpaid balance. The decision to collect, and the vigor with which collection is pursued, remains a matter of institutional policy and judgment.

This framework produces a notable asymmetry. The federal obligation to return unearned aid is nondiscretionary: an institution that fails to perform the R2T4 calculation or return funds in a timely manner faces audit findings, financial liability, and potential loss of Title IV eligibility. But the two institutional decisions that most directly determine whether a withdrawing student ends up in debt are almost entirely discretionary. The first is the institution's refund policy — that is, how much of the student's charges the institution reduces or forgives when a student withdraws before completing a term. Because R2T4 governs only the return of federal funds and not what the institution may charge the student,

⁷ When a student finishes a payment period with exclusively non-passing grades — all F's, W's, or some combination thereof — the institution must determine whether the student actually remained enrolled and engaged through the end of the term or instead ceased attendance at some earlier point without formally withdrawing. If the institution cannot document continued academic engagement through at least the sixty-percent point of the academic term, it is required to treat the student as having unofficially withdrawn and to perform the R2T4 calculation, using either the last documented date of academic activity or, absent such evidence, the midpoint of the term. The institution must then return the unearned portion of Title IV funds to the federal government in accordance with the prescribed formula and order of priority. Because the institution's own refund or charge adjustment policy may not reduce the student's charges by a corresponding amount — and in many cases will not, particularly if the institution's policy provides limited or no refund for late-term withdrawals — the student may be left owing an institutional balance representing the difference between the charges that remain on the student's account and the federal funds that are no longer available to cover them. In this way, a transcript of failing or incomplete grades can generate a debt to the institution not because of the poor academic performance itself, but because the grades serve as circumstantial evidence that the student may have stopped attending, triggering a federally mandated return of funds that the institution's own billing policies do not offset.

⁸ See 20 U.S.C. § 1091b; 34 C.F.R. § 668.22 (prescribing the return of unearned Title IV funds but imposing no requirement that institutions collect resulting balances from students).

the refund policy is the single most important variable in determining the size of the balance a student faces after withdrawal. Two students withdrawing on the same day with identical aid packages can end up owing dramatically different amounts depending solely on where they enrolled. An institution with a prorated or generous refund schedule may reduce charges enough that there is little or no remaining balance; an institution that retains the full term's charges regardless of when the student left may leave the student owing thousands of dollars. Most institutions likely fall somewhere in between.

The second discretionary decision is whether to pursue collection of that balance at all — and if so, how aggressively. Federal law is silent on both questions. Whether institutions exercise these discretionary choices in ways that account for the financial vulnerability of withdrawing students — many of whom leave school precisely because of financial hardship — and whether students are adequately informed of the consequences of withdrawal before they incur obligations they may struggle to satisfy, are questions that merit this Commission's close attention.

2. Collecting on Institutional Debts

Institutional debts — whether incurred because of R2T4 calculations or as a result of something as mundane as library fines or campus parking tickets — are collected through methods that the institution selects at its own discretion, subject to applicable state law. These methods vary widely in their formality, legal complexity, and consequences — for students and, as I will discuss, for institutions themselves.

2.1 Administrative Holds and Diploma Withholding

The most immediate collection tools available to an institution are internal ones. Colleges and universities routinely place registration holds on the accounts of students with outstanding balances, preventing them from enrolling in future courses.⁹ They may also withhold diplomas or prevent students from participating in commencement ceremonies.¹⁰ Since 2019, California educational institutions may not withhold transcripts as a collection tool.¹¹ Despite this, a 2025 Student Borrower Protection Center investigation found that 44

⁹ See, e.g., San Mateo Community College District, Registration Holds, <https://smccd.edu/admissionsandrecords/registrationholds.php> (“It is the student’s responsibility to clear holds in a timely manner. Holds for parking tickets, library fines, materials, equipment, returned checks, etc. must be resolved with the department that has placed the hold.”).

¹⁰ See, e.g., CalState Monterrey Bay, Registration holds, <https://csumb.edu/planning/registration-holds/> [<https://perma.cc/N763-H48K>] (last visited March 19, 2025) (“Holds can prevent you from registering for classes, adding and dropping classes, receiving transcripts, obtaining grades, or graduating.”)

¹¹ The Educational Debt Collection Practices Act, California Civil Code sections 1788.90 through 1788.94, expressly prohibits a school from refusing to provide a transcript on the grounds that a student owes a debt, conditioning transcript issuance on payment of a debt other than the ordinary transcript fee, charging a higher fee or providing less favorable treatment of a transcript request because a student owes a debt, or using transcript issuance as a tool for debt collection.

colleges and universities claimed on their websites that they could withhold transcripts, in direct contravention of the law.¹²

These administrative measures are intended as leverage, but they carry consequences that extend well beyond the individual student. A registration hold can prevent a student who is otherwise academically eligible from continuing their education. This can turn a temporary financial setback into a permanent departure from higher education. A student who cannot register does not re-enroll. A student who does not re-enroll does not complete a degree. A student who is blocked from receiving a diploma they have already earned (or from walking at commencement) is denied both the credential and the milestone, often over a balance that may be trivially small relative to the cost of the education itself.

What is less commonly recognized is that these practices also harm the institutions that employ them. Every student who is prevented from re-enrolling because of a hold is a student the institution loses from its enrollment count. Every student who cannot receive a diploma is a student who does not appear in the institution's completion statistics.¹³ At a time when California's public institutions are evaluated and funded based on completion and persistence metrics, the routine use of holds and diploma withholding to collect modest debts can be directly counterproductive to the institution's own stated goals. The institution, in effect, trades a receivable it may never collect for a measurable decline in the outcomes it is publicly accountable for.

Six years after the Legislature banned transcript withholding for unpaid debts, forty-four institutions were still telling students on their websites that they could do exactly that.¹⁴ That is not simply a failure to update a webpage. The language serves a collection function whether the institution ever follows through; it deters students from requesting transcripts they are legally entitled to receive. And the broader resistance to relinquishing these tools is particularly difficult to defend at public institutions. A state-funded university that blocks a student from re-enrolling or withholds a diploma over a parking fine is using public infrastructure to extract payment from the people it was built to educate. The students most affected are disproportionately low-income, disproportionately students of color, and disproportionately the students who withdrew because they could not afford to stay. The amounts are often trivial. The consequences for both the student and the school are not.

2.2 Internal Collection, Payment Plans, and Third-Party Collectors

Beyond administrative holds, institutions may attempt to collect outstanding balances directly through their own business offices. Practices vary widely. Some institutions offer payment plans or hardship accommodations that allow students to resolve balances over

¹² Memorandum, Andrew Martin & Charlie Eton, Investigative findings related to California colleges' continued use of unlawful transcript withholding practices (Dec. 2025), <https://protectborrowers.org/wp-content/uploads/2025/11/Transcript-Withholding-Memo-FINAL-1.pdf>.

¹³ As we noted in a 2022 report, "[r]emarkably, the student may be able to enroll at a different school to begin or complete a new program, but not at their original school—where completion is likely to be most feasible." *Creditor Colleges*, *supra* note 2, at 14.

¹⁴ *Id.* See also Felicia Mello, Why California colleges can no longer withhold transcripts over unpaid fees, Los Angeles Times (Dec. 23, 2025), <https://www.latimes.com/california/story/2025-12-23/california-colleges-no-longer-withhold-transcripts-unpaid-fees>.

time without additional cost. Others take a less forgiving approach and may even charge a monthly late fee.¹⁵ A student who owes a small balance and lacks the resources to pay it immediately can watch that balance grow, month over month, into something far more difficult to resolve.

California colleges and universities collecting their own debts are subject to the Rosenthal Fair Debt Collection Practices Act (“Rosenthal Act”), which extends to original creditors the same general prohibitions against harassment, misrepresentation, and unfair collection practices that the federal FDCPA imposes only on third-party collectors.¹⁶ This means that a California institution’s own collection office must comply with statutory standards of conduct, and faces exposure to actual damages, statutory damages, and attorney’s fees for violations.

When internal collection efforts fail, or when institutions simply prefer not to act as debt collectors themselves, institutions may refer delinquent accounts to third-party debt collectors.¹⁷ In 2022, the websites of at least 7 UC campuses and 19 CSU campuses reported doing so.¹⁸ At that point, both the Rosenthal Act and the federal FDCPA apply concurrently — but the practical reality for the student changes significantly. The student is no longer dealing with their former university who has the power to waive some of the debt because for example, it was for a parking pass that they did not use. Now they are dealing with a private collection firm whose revenue depends on what it recovers. Under UC’s contracts with its collection agencies, those firms are paid a percentage of what they collect — a cost that is added to the student’s balance.

A typical collector’s cut is 15 to 25 percent, but one news report found that debt collection agencies contracting with community colleges in California can add 39 percent to the total balance.¹⁹ Attorney’s fees and other costs may be added on top of that. The collector may call, text, or use other means to pursue payment. In some cases, the collector may sue the student in state court. And the collector may report the debt as delinquent to credit reporting bureaus—damaging the student’s credit score and creating downstream consequences for housing, employment, insurance costs, and access to credit that persist long after the original balance is resolved or even paid in full.²⁰

¹⁵ At one point, the Berkeley website disclosed it applied a \$25 monthly charge to late debts exceeding \$50. See Berkeley Student Billing: Delinquent Accounts, <https://perma.cc/T9UK-VE5U> (captured March 11, 2022) and <https://web.archive.org/web/20220926133418/https://studentbilling.berkeley.edu/billing/delinquent-accounts> (archived Sept. 26, 2022). The current version of the website does not publicly disclose fees and instead directs students to log into a password-protected website. Berkeley Student Billing: Delinquent Accounts, <https://studentbilling.berkeley.edu/billing/delinquent-accounts>.

¹⁶ See California Civil Code sections 1788 through 1788.33 and Fair Debt Collection Practices Act, 15 USC 1692 et. seq.

¹⁷ By way of example, the list of debt collection agencies that the University of California contracts with can be found at UC Procurement, Professional Services Agreements, <https://www.ucop.edu/procurement-services/for-ucstaff/systemwide-contract-lists/professional-services-agreements.html>.

¹⁸ *Creditor Colleges*, *supra* note 2, at 14.

¹⁹ Meredith Kolodner, NBC NEWS, Public colleges in 49 states send students’ debts to collection agencies, imperiling financial futures (Jun. 1, 2021), <https://www.nbcnews.com/news/us-news/public-colleges-49-states-send-students-debts-collection-agencies-imperiling-n1268936> [<https://perma.cc/958H-SXMS>].

²⁰ *Creditor Colleges*, *supra* note 2, at 14. See also UC San Diego, Charge Inquires & Collections, <https://sfs.ucsd.edu/student-accounts/inquires/index.html> (“SFS engages in monthly billing and account

It's worth stepping back and asking whether any of this makes sense as a matter of institutional policy. The debts at issue are often small—a few hundred dollars in many cases.²¹ The students who owe them are disproportionately those who left school because of financial hardship in the first place. The institution pays a collection agency 15 to 25 cents of every dollar recovered to chase balances that, in many cases, could have been forgiven for less than the administrative cost of pursuing them. And the return on that investment is poor. In 2022, “one UC campus reported that only 17% to 19% of balances placed with collectors were successfully collected from 2018-2019 and 2020-2021.”²² The remaining 80-plus percent of referred balances went uncollected by debt collectors—but not without consequence. Those students still received collection calls, could not re-enroll, and may have had their credit damaged.

Meanwhile, the institution counted each of them as a non-completer in its own performance metrics. Lake Tahoe Community College District offers a useful data point: when it canceled pandemic-era debts, 152 of the 457 affected students subsequently re-enrolled — nearly 7 percent of its Fall 2020 enrollment.²³ If that re-enrollment rate were replicated statewide, tens of thousands of students would return to California's public colleges and universities. The question for the Commission is whether the revenue recovered through aggressive collection of small-dollar institutional debts justifies the human and institutional cost of the current approach — or whether California would be better served by a policy framework that treats debt forgiveness and re-enrollment as the more productive investment.

2.3 The Franchise Tax Board Interagency Intercept Collection Program

Both public and private California institutions have used the Franchise Tax Board Interagency Intercept Collection Program, which permits qualifying entities to refer delinquent debts for interception of the debtor's state tax refunds, lottery winnings, and certain other state payments. This program functions as a state-level analog to the federal Treasury Offset Program, providing a self-executing collection mechanism that does not require litigation or the debtor's cooperation.²⁴ For public institutions, the intercept authority is broad: the state is, in effect, paying itself first out of funds it already owes the taxpayer, much as it does for back taxes, child-support arrears, or court fines.

Institutions are not required to use the intercept program to collect,²⁵ but it can be a cost-effective method. The only requirement is to send the student a “Pre-Intercept Notice” 30

monitoring to validate account balances and determine which accounts should be processed for continued collection efforts through third-party agencies.”).

²¹ See Part 2.3, *infra*.

²² *Creditor Colleges*, *supra* note 2, at 17.

²³ *Creditor Colleges*, *supra* note 2, at 14.

²⁴ Note that the Department of Education has paused the Treasury Offset Program for an indefinite period. U.S. Department of Education Delays Involuntary Collections Amid Ongoing Student Loan Repayment Improvements (Jan. 16, 2026), <https://www.ed.gov/about/news/press-release/us-department-of-education-delays-involuntary-collections-amid-ongoing-student-loan-repayment-improvements>.

²⁵ Nonetheless, some institutions state otherwise on their websites. California State University, San Bernardino, Students No Longer Attending CSUSB, <https://www.csusb.edu/student-financial-services/services/collections> (“CSUSB is required to annually report the debt to the Franchise Tax Board for state refund garnishment; per California Government Code Sections 12419.2, 12419.7, 12419.9, 12419.10, 12419.11, and 12419.12.”).

days before forwarding the debt to the FTB.²⁶ The sample notice consists of 163 words (three paragraphs) of text which simply requires the institution to its name and the total amount of debt it claims to be due.²⁷ At no point does it require the institution to itemize the debts or provide dates when they were incurred.²⁸ What's more, until 2023, the statute permitted interception of any funds due a taxpayer — including payments under poverty-targeted tax programs such as the Young Child Tax Credit — meaning that the state's own anti-poverty expenditures could be seized to satisfy an institutional debt before the taxpayer ever received them.²⁹

The scale of public-institution use is significant, and the amounts intercepted per individual are often strikingly small. In 2019, California Community Colleges collectively intercepted \$8,751,968.62 from 59,363 individuals, an average of \$147.43 per person. By 2023, that figure had dropped to \$1,957,609.04 from 8,632 individuals, an average of \$226.79 per person. Individual community college districts also participate on their own. Marin Community College District, for example, intercepted \$4,885.12 from 29 individuals in 2023, an average of \$168.45 per person. My own institution, UC Irvine, used the program in a single year during this period during the 2018-23 period, intercepting \$182,269.93 from 696 individuals in 2023, an average of \$261.88. These are not large debts. In many cases, they are likely parking tickets and library fines and residual tuition balances described earlier in this testimony. But the intercept program allows institutions to collect them without negotiation, without a payment plan, and minimal little notice to the student until the money is already gone.

²⁶ FTB 2288 Pre-Intercept Notice Instructions, <https://www.ftb.ca.gov/pay/collections/interagency-intercept/pre-intercept-notice-instructions.html>.

²⁷ This is the entirety of the sample text of the notice:

Our records show that you have a \$ delinquent debt due to the Agency/College. You have 30 days to voluntarily pay this amount before we submit your account to the Franchise Tax Board (FTB) for interagency intercept collection.

FTB operates an intercept program in conjunction with the State Controller's Office, collecting delinquent liabilities individuals owe to state, local agencies, and colleges. FTB intercepts tax refunds, unclaimed property claims, and lottery winnings owed to individuals. (Unless law prohibits those debts to be offset by unclaimed property or lottery winnings.) FTB redirects these funds to pay the individual's debts to the agencies/colleges (California Government Code Sections 12419.2, 12419.7, 12419.9, 12419.10, 12419.11, and 12419.12).

If you have questions or do not believe you owe this debt, contact us within 30 days from the date of this letter. A representative will review your questions/objections. If you do not contact us within that time, or if you do not provide sufficient objections, we will proceed with intercept collections.

Id.

²⁸ Institutions can submit a different notice with more information. For example, UMass Global adds in its notice the following two sentences: "You may pay amount due via a money order or a bank check payable to University of Massachusetts Global and mail it to the address below. Please note that the law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it and it will not be reported to any credit reporting agency." PRA Documents Part 2 at 23 <https://github.com/HigherEdData/CA-Private-Colleges/blob/main/PRA%20Response/HERE%20PRA-%20Documents%20Part%202.pdf>.

It also modifies the last paragraph to say "Collections department will review your questions or concerns. If you do not contact us within that time, *or if you do not provide sufficient documented objections*, we will proceed with intercept collections." *Id.* (emphasis added).

²⁹ Since January 1, 2024, refunds that reflect application of the California earned income tax credit, the young child tax credit, or the foster youth tax credit may not be intercepted at all. Calif. Gov't Code §12419.3.3.

The Commission should be aware that this same authority has been extended — on far narrower statutory terms — to private colleges.

2.4 Misuse of the Intercept Program by Private Colleges, the Controller’s Office, and the FTB

In 1997, the Legislature enacted California Government Code section 12419.9 permitting certain private institutions to request tax-refund intercepts from the Franchise Tax Board, but only (1) for the collection of federally subsidized student loans owed to the institution, (2) only against tax refunds rather than lottery or unclaimed-property payments, (3) and only if the institution was licensed on or before June 30, 2007 under a statute that has since been repealed.³⁰ These conditions reflect the Legislature’s apparent recognition that allowing private creditors to reach government funds raises concerns that do not arise when the state offsets its own obligations: it effectively turns the public treasury into a collection agency for private receivables, giving those creditors priority over every other private creditor (and potentially other state agencies!) without the usual legal safeguards.³¹

Public records obtained through the California Public Records Act reveal that these statutory limits were ignored, and that state officials eventually recognized as much but failed to take meaningful corrective action. What follows is drawn from a forthcoming co-authored paper based on publicly available data and documents produced by the Controller’s Office and FTB in response to our records requests.³²

Twenty-five private institutions appear in the Controller’s Office and FTB records as enrolled in the intercept program — roughly ten percent of the 252 degree-granting private institutions operating in California in 2022–23.³³ Seventeen of those twenty-five received intercepted funds between 2018 and 2023, collecting more than \$4.3 million from roughly 8,054 individuals through the FTB.³⁴ Most of those funds came from tax refunds, but \$40,668.71 was taken from approximately 131 individuals’ lottery winnings and unclaimed-property payments, fund sources that section 12419.9 does not authorize private institutions to use at all.³⁵

³⁰ Calif. Gov’t Code § 12419.9.

³¹ Notes that § 12419.9(c) states that “[w]henver the amount available is insufficient to offset all amounts due state agencies, the amount available shall be applied in such manner as the Controller, in the Controller’s discretion, shall determine.” Our PRA request to the Controller asked for documents regarding any procedures on how decisions are made when a state agency and a private college submits conflicting requests for an offset. We did not receive any responsive documents.

³² Dalíé Jiménez, Jonathan Glater, Andrew Martin, and Charlie Eaton, *Public Power, Private Debts: The Misuse of California’s Tax Intercept Power for Private Colleges* (draft paper, on file with author). While the paper is not yet public, the underlying Public Records Act production and data is available on GitHub. CA Private Colleges, <https://github.com/HigherEdData/CA-Private-Colleges>.

³³ Degree-granting postsecondary institutions, https://nces.ed.gov/programs/digest/d23/tables/dt23_317.20.asp.

³⁴ Note that the PRA production reports number of offsets per school per year. We cannot tell if the same taxpayers appeared more than once in multiple years, so this likely includes some overcounting of individuals.

³⁵ Cal. Gov’t Code 12419.9(c) (“Offset pursuant to Section 12419.5 and this section shall be limited to amounts due a person on a claim for a personal income tax refund.”).

The total amounts collected by these seventeen private institution between 2018-2023 ranged from \$6,362.60 to \$2,141,368.22, with a median of \$69,277.³⁶ The debts being collected were not limited to federally subsidized student loans as the statute requires; they included tuition, fees, fines, and parking tickets, per the institutions own stated documentation submitted to the FTB.³⁷ What's more troubling: at least one participating institution, the largest single user of the program, did not exist as of the 2007 licensing cutoff and thus could not possibly satisfy the statute's threshold eligibility requirement.³⁸

The root cause of this was systemic: the Controller's Office and FTB had been treating public and private institutions identically for purposes of the intercept authority, assigning them the same internal category code and applying no filter for the statutory restrictions that apply only to private schools. Basically treating private colleges subject to the 12419.9 no differently than a public agency and ignoring the statutory language. As a November 2022 internal email from a Controller's Office analyst acknowledged: "Unfortunately, we have been lumping ALL higher learning institutions [private and public] into Category Code 8, resulting in private institutions receiving offsets from all sources without proper legal authority."³⁹

By late 2022 and into 2023, agency staff began circulating copies of section 12419.9 with key language highlighted and raising concerns about the legal basis for the payments.⁴⁰ But the internal response was halting at best. Staff debated whether to create a new category code or modify the enrollment form to ask schools to self-identify as public or private; they ultimately chose to change the code internally rather than require anything of the schools. No one audited existing enrollments to verify whether the underlying debts were federally subsidized loans. No one required institutions to attest to their eligibility. It is not clear that either agency ever informed the affected schools that they had received money they were not

³⁶ Seventeen institutions received FTB intercepts during 2018-23 according to public records from the FTB. They are: Biola University, California College of Arts, Chapman University, La Sierra University, Loma Linda University, Loyola Marymount University, Notre Dame de Namur University, Pepperdine University, Saint Mary's College of California, Santa Clara University, Stanford University (also separately listed as Stanford Redwood City Campus), UMass Global, University of La Verne, University of Redlands, University of Southern California, Vanguard University, and Whittier College. See IIC Offset Data 2018,

<https://github.com/HigherEdData/CA-Private-Colleges/blob/main/PRA%20Response/IIC%20Offset%20Data%202018.pdf>; IIC Offset Data 2019-2023, <https://github.com/HigherEdData/CA-Private-Colleges/blob/main/PRA%20Response/IIC%20Offset%20Data%202019-2023.pdf>.

³⁷ PRA Documents Part 2, <https://github.com/HigherEdData/CA-Private-Colleges/blob/main/PRA%20Response/HERE%20PRA-%20Documents%20Part%202.pdf>. UMass Global for example, stated that they would collect on "fines, dishonored checks, fees, tuition, unpaid services, and overpayments". *Id.* at 21. Nothing about loans of any type, let alone federally subsidized ones.

³⁸ UMass Global, an online school connected to the University of Massachusetts system is based in Aliso Viejo, California. About UMass Global, <https://www.umassglobal.edu/about>. According to PRA documents, it was the single largest user of the intercept program, collecting \$2,141,368.22 from 3,686 individuals during the 2018-2023 period, an average of \$580.94 per person. UMass Global's predecessor, Brandman University was created in 2008 as Chapman University College. See Chapman University History Timeline, <https://www.chapman.edu/library/libraries-collections-and-archives/special-collections-and-archives/history-timeline.aspx>.

³⁹ PRA Documents Part 2, at 4, <https://github.com/HigherEdData/CA-Private-Colleges/blob/main/PRA%20Response/HERE%20PRA-%20Documents%20Part%202.pdf>.

⁴⁰ *Id.*

entitled to. The FTB has still not acknowledged that schools appear to be collecting on *anything but* federally subsidized student loans, which is not permitted by the statute.

A July 2023 internal meeting between Controller's Office and FTB staff to discuss the erroneous payments is particularly revealing.⁴¹ The meeting notes reflect concern not primarily about restitution to taxpayers whose funds were illegally intercepted, but about institutional exposure: "Will this end up in the media? Will other debtors want refunds from past years?"⁴² Staff noted that reversing the payments would be complicated and costly, that the last time a similar correction was attempted it took two years, and speculated that affected taxpayers might prefer to leave the money applied to their debts rather than seek refunds. The meeting concluded with "Action Items: None noted." No relevant later documents were produced in response to our records request or other inquiries.⁴³

In short, state agencies recognized that they had been facilitating unauthorized interceptions of taxpayer funds on behalf of private colleges for more than two decades — and apparently chose to do effectively nothing about it. They did not suspend private-college participation. They did not pursue restitution. They did not audit past interceptions. They attempted to create a narrow technical fix for lottery and unclaimed-property payments going forward while leaving the broader statutory violations unaddressed. The Legislature should repeal section 12419.9 altogether. In the interim, the State Controller should immediately halt all private-college offsets and conduct a full accounting of past interceptions. Institutions that received funds to which they were not entitled may face liability under California's Unfair Competition Law, and the affected taxpayers are owed, at a minimum, notice and the option of restitution.

3. Addressing the Problems of Institutional Debt

The problems described in this testimony arise from a combination of federal mandate, state statutory gaps, agency negligence, and institutional policy choices. The solutions likewise operate at multiple levels. What follows are recommendations directed at the Legislature, state agencies, and California's public institutions, organized into three categories: reforms to reduce the creation of institutional debts, reforms to regulate their collection, and reforms to ensure ongoing visibility into the scope of the problem.

3.1 Reducing the Creation of Institutional Debts

3.1.1 Institutional Refund Policies

As discussed above, the size of a student's post-withdrawal debt is determined less by the federal R2T4 calculation than by the institution's own refund policy. The R2T4 formula is

⁴¹ *Id.*

⁴² This is after the heading "BAC Concerns." *Id.* at 9. BAC likely refers to the "[a]dministrative team [that] oversees the departmental functions of Budget, Accounting, Contracts/Procurement and Business Services," which is part of the Administration and Disbursements Division of the State Controller's office. State Controller's Functions, https://www.sco.ca.gov/eo_about_func.html.

⁴³ We shared a draft of our article and findings with the Controller's Office earlier this year and met with staff from both the FTB and the Controller's Office on February 11, 2026. Both agencies are aware of the issues described here.

federal and beyond the Legislature's control. Refund policies are not. The Legislature should require all public colleges and universities in California to adopt prorated refund schedules that reduce institutional charges in proportion to the percentage of the term the student did not complete. A student who withdraws after two weeks of a fifteen-week semester should not owe the same charges as a student who completed the term. And some charges are not even real losses to the institution — a parking pass or meal plan for a student who is no longer on campus costs the university nothing to reverse. Continuing to bill for services that will never be rendered is pure accounting inertia, and it should not be permitted to generate a debt that derails a student's academic career. Some institutions already prorate voluntarily; making it mandatory and uniform across California's public colleges and universities would eliminate the current disparity in which two identically situated students face radically different debt outcomes depending solely on where they enrolled.

3.1.2 Small-Dollar Debt Forgiveness

The data show that most institutional debts sent to collections are small, that collection rates on those debts are poor — one UC campus recovered only 17 to 19 percent of referred balances — and that the cost to students in lost educational opportunity, damaged credit, and financial distress is grossly disproportionate to the amounts at issue. The Legislature should mandate that public institutions forgive institutional debts below a specified threshold — whether \$500, \$1,000, or another figure the Commission deems appropriate — rather than refer them to collections or apply administrative holds. The cost of forgiveness is modest. The cost of the current approach, measured in non-completions and student harm, is not.

3.1.3 Mandatory Pre-Withdrawal Disclosure

Students who withdraw are rarely informed, in concrete terms, of the financial consequences until the damage is already done. A student may not learn that their Pell Grant can become a debt, that the institution's refund policy has left a balance on their account, or that the balance has been sent to collections until they receive a call from a debt collector or attempt to re-enroll and discover a hold on their account. By the time a student initiates a formal withdrawal, the R2T4 clock has often already run — the financial consequences are locked in. The Legislature should require educational institutions to provide clear, individualized financial disclosures to students at the point when they first indicate they are considering withdrawal or stop attending classes, not after the withdrawal is processed. That disclosure should show the estimated balance that will result, the collection methods the institution may use, and the potential impact on the student's credit and future enrollment. This is not a substitute for the structural reforms described above, but it ensures that students who are still weighing their options understand what is at stake before the decision becomes irreversible.

3.2 Reforming the Collection of Institutional Debts

3.2.1 Enforcement of the Transcript Withholding Ban

The 2019 ban on transcript withholding for unpaid debts is not being uniformly followed.⁴⁴ The Legislature should give the Attorney General or another state agency explicit authority to enforce the ban, including the power to impose fines on institutions that threaten transcript withholding in written materials, on their websites, or in communications with students. Students cannot exercise their rights under a law they are told does not exist.

3.2.2 Registration Holds and Diploma Withholding

The Legislature should prohibit the use of registration holds and diploma withholding as debt collection tools at public institutions, or at minimum establish a dollar threshold below which these tools may not be used. The evidence is clear that these practices are counterproductive: they prevent re-enrollment, depress completion rates, and cost institutions more in lost tuition and diminished performance metrics than they recover in collected debt. Lake Tahoe Community College District's experience — in which a third of students whose debts were canceled subsequently re-enrolled — suggests that removing these barriers is not only humane but financially rational. If an outright ban is not politically viable, a reasonable intermediate step would be to cap the balance that can trigger a hold or diploma withholding at a level that reflects genuinely significant debt rather than residual fines and fees.

3.2.3 Standards for Institutional Debt Collection Practices

California law currently provides no framework specific to how institutions of higher education collect their own debts beyond the general requirements of the Rosenthal Act. The Legislature should enact legislation — along the lines of the previously introduced AB 1160 — requiring institutions to adopt and publicly post a written collection policy consistent with existing consumer protections. That legislation should, at minimum, prohibit institutions from referring debts to third-party collectors until at least 180 days after the institution's first communication requesting payment and after the institution has made all reasonable efforts to contact the student and resolve the balance. It should require that any third-party collector engaged by the institution be licensed by the state and bound by a written agreement to comply with the institution's own collection standards. Before any referral, the institution should be required to send the student a detailed notice itemizing the charges, identifying the collector, explaining the consequences of nonpayment — including potential credit reporting and civil action — and providing information about available emergency financial aid, complaint procedures with the Department of Financial Protection and Innovation, and resources for students subjected to abusive collection practices. The same 180-day waiting period should apply before any adverse credit reporting or commencement of civil action. The goal is straightforward: institutions should be required to

⁴⁴ Memorandum, Andrew Martin & Charlie Eton, Investigative findings related to California colleges' continued use of unlawful transcript withholding practices (Dec. 2025), <https://protectborrowers.org/wp-content/uploads/2025/11/Transcript-Withholding-Memo-FINAL-1.pdf>.

exhaust meaningful, good-faith efforts to work with students before resorting to tools that cause lasting financial harm.

The Franchise Tax Board Intercept Program

Three reforms are needed with respect to the intercept program, listed here in ascending order of the time and political capital required to implement them.

First, the State Controller should immediately suspend all private-college participation in the Interagency Intercept Collection Program and conduct a full audit of interceptions made on behalf of private institutions between 1997 and the present, to the extent data allows. No legislation is required to do this. Government Code section 12419.9(b) makes the Controller's participation entirely discretionary. The statute says the Controller may offset debts in "the Controller's discretion," not that the Controller must do so.⁴⁵ The Controller can stop facilitating these interceptions tomorrow. Taxpayers whose funds were illegally intercepted are owed notice and the option of restitution. Institutions that received funds to which they were not entitled should be required to return them, and the Attorney General should evaluate whether referrals for liability under the Unfair Competition Law or other statutes are warranted. At a minimum, the Commission should urge the Controller to stop processing intercepts from private colleges and undertake a review of the entire program.

Second, the Legislature has already acted to prohibit the use of the intercept program to seize payments under poverty-targeted tax programs, including the Young Child Tax Credit and the California Earned Income Tax Credit. Whether that prohibition is being implemented correctly is an open question; the Commission should not assume compliance. The Legislature or the State Auditor should verify that these protections are functioning as intended.

Finally, the Legislature should repeal Government Code section 12419.9. This is arguably unnecessary given that the Controller already has discretion to stop processing private-college intercepts, and the statute's eligibility criteria reference a law that was found unconstitutional in 2007 and repealed in 2008 — meaning there is arguably no institution in California that can satisfy its requirements. But repeal removes any ambiguity. It eliminates the possibility that a future Controller will resume the practice, and it makes explicit what should already be obvious: there is no policy justification for allowing private creditors to use the state's tax collection infrastructure to intercept funds owed to individual taxpayers.

3.3 Accountability and Reporting

There is remarkably little publicly available data on the volume, size, and disposition of institutional debts at California's colleges and universities, public or private. The Commission should recommend that the Legislature require all institutions of higher education operating in California — including the UC, CSU, and Community College systems, as well as private institutions authorized by the Bureau for Private Postsecondary

⁴⁵ Calif. Gov't Code § 12419.9(b).

Education — to report every two years on institutional debt and collection activity. The previously introduced AB 1160 provides a sound template for the scope of this reporting.

At minimum, institutions should be required to disclose the following information:

1. The total number and dollar amount of outstanding institutional debts and the number of current and former students who owe them, by year incurred.
4. The number of students currently subject to a registration hold, diploma withholding, or other administrative action due to an institutional debt, by year in which the debts were incurred.
5. The total number and dollar amount of outstanding institutional debts that resulted, in whole or in part, from the return of federal financial aid under the R2T4 process, by year in which the debts were incurred.
6. For the previous two years, the total number and dollar amount of institutional debts collected by the institution directly, referred to third-party collectors, and referred to the Franchise Tax Board during the prior two fiscal years, and the amounts successfully recovered through each method, by year in which the debts were incurred.
7. For the previous two years, the total amount paid to third-party debt collectors or collection attorneys to handle institutional debt accounts and the total dollar of debts placed with debt collectors, by year in which the debts were placed.
8. A description of the institution's refund policies, including policies regarding when credits/refunds are applied after a withdrawal, the disclosures provided to students about withdrawal, and any policies regarding small debt or *de minimus* debt forgiveness.
9. A description of the institution's collection policies, including the use of administrative holds, late fees, and the criteria for referral to third-party collectors or the FTB.
10. To the extent it is already known to the institution, the racial and gender demographics of students carrying institutional debt.
11. The total number and dollar amount of institutional debts owed by Pell Grant-eligible students.

Policy cannot improve what it cannot measure. The absence of this data has allowed harmful practices to persist without scrutiny for decades. Requiring it from private institutions as well as public ones is both legally straightforward and substantively necessary — private institutions participate in the same federal aid programs, their students face the same R2T4 consequences, and as this testimony has documented, some private institutions have been collecting debts through the state's own intercept infrastructure without legal authority to do so.