

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1780 (Ting) – As Amended April 8, 2024

SUBJECT: Independent institutions of higher education: legacy and donor preference in admissions: prohibition.

SUMMARY: Prohibits an independent institution of higher education (also known as an independent California College or University (ICCU)), as defined, from providing a legacy preference or donor preference in admissions, as defined, to an applicant as part of the regular or early action admission process and makes it a violation of the prohibition subject to a civil penalty equal to the amount the ICCU campus received in the year before the violation occurred. Specifically, **this bill:**

- 1) Prohibits an ICCU from providing a legacy preference or donor preference in admissions to an applicant as part of the regular or early action admission process.
- 2) Stipulates that a violation of (1) above, will result in a civil penalty equal to the amount the ICCU receives in the year before the violation occurred pursuant Cal Grant Program or the Cal Grant Reform Act, as applicable. The civil penalty will be assessed and recovered by the Bureau for Private Postsecondary Education (BPPE) and deposited into the Cal Grant Account, which is hereby established in the State Treasury. Upon appropriation by the Legislature, funds in the Cal Grant Account will be available for purposes of funding the Cal Grant Program and the Cal Grant Reform Act.
- 3) Requires that the Civil Rights Department must post the names of the ICCU campuses that violate (1) above on its internet website. The information must be provided to the Civil Rights Department by the BPPE.
- 4) Requires the ICCUs on or before June 30, 2026, and annually thereafter to report to the Legislature, both of the following:
 - a) The race, geography, income brackets, and athletic status of all admitted students at the independent institution of higher education; and,
 - b) The admission rate of students who are provided a legacy preference or donor preference in admissions, as compared to the admission rate of students who are not provided a legacy preference or donor preference in admissions.
- 5) Defines the following, for purposes of this measure:
 - a) “Donor preference in admissions” to mean considering an applicant’s relation to a donor of, or a donation to, the independent institution of higher education as a factor in the admission process;
 - b) “ICCU” has the same meaning as defined in subdivision (b) of Section 66010; and,

- c) “Legacy preference in admissions” means considering an applicant’s relation to an alumni of the ICCU as a factor in the admission process, including asking an applicant to indicate where their relatives attended college and including that information among the documents that the ICCU uses to consider an applicant for admission.

EXISTING LAW:

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of California (UC), California State University (CSU), and California Community Colleges (CCC); and, defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education (Education Code (EC) Section 66010, et seq.).
- 2) Requires, on or before June 30, 2020, and on or before June 30 of each year from 2021 to 2024, inclusive, the Trustees of the CSU, the Regents of the UC, and the appropriate governing bodies of each ICCU that is a “qualifying institution,” as defined to report to the appropriate budget subcommittees and policy committees of the Legislature whether their respective institutions provide any manner of preferential treatment in admission to applicants on the basis of their relationships to donors or alumni of the institution;
- 3) Each institution that provides preferential treatment, as specified, must include in its report, all of the following for the academic year (AY) commencing in the previous calendar year pertaining to applicants who received preferential treatment:
 - a) The number of applicants who did not meet the institution’s admission standards that apply to all applicants, but who were offered admission;
 - b) The number of applicants reported per (a) above, who accepted admission to the institution;
 - c) The number of applicants reported pursuant to (b) above, who enrolled at the institution;
 - d) The number of applicants who met the institution’s admission standards that apply to all applicants and who were offered admission;
 - e) The number of applicants reported as specified in (d) above, who accepted admission to the institution; and,
 - f) The number of applicants reported as enumerated in (e) above, who enrolled at the institution.
- 4) Stipulates information reported by the CSU and the UC must be disaggregated by each campus of the CSU and UC (ED Section 66018.5).

FISCAL EFFECT: Unknown

COMMENTS: *Need for the measure.* According to the author, “legacy admissions have again come back to the forefront with the 2023 Supreme Court decision banning the use of affirmative action policies in admissions. Affirmative action policies are intended to improve educational

and employment opportunities for traditionally marginalized groups. With this decision, the concern over how legacy admissions benefit the already privileged has resulted in nationwide conversations about stopping the practice. Studies show legacy admissions practices disproportionately benefit wealthy and White applicants.”

The author contends that, “AB 1780 is an opportunity to create a more equitable system for all students.”

This measure prohibits an ICCU from providing a legacy preference or donor preference in admissions to an applicant as part of the regular or early action admission process, and makes it a violation of the prohibition subject to a civil penalty equal to the amount the ICCU campus received in the year before the violation occurred.

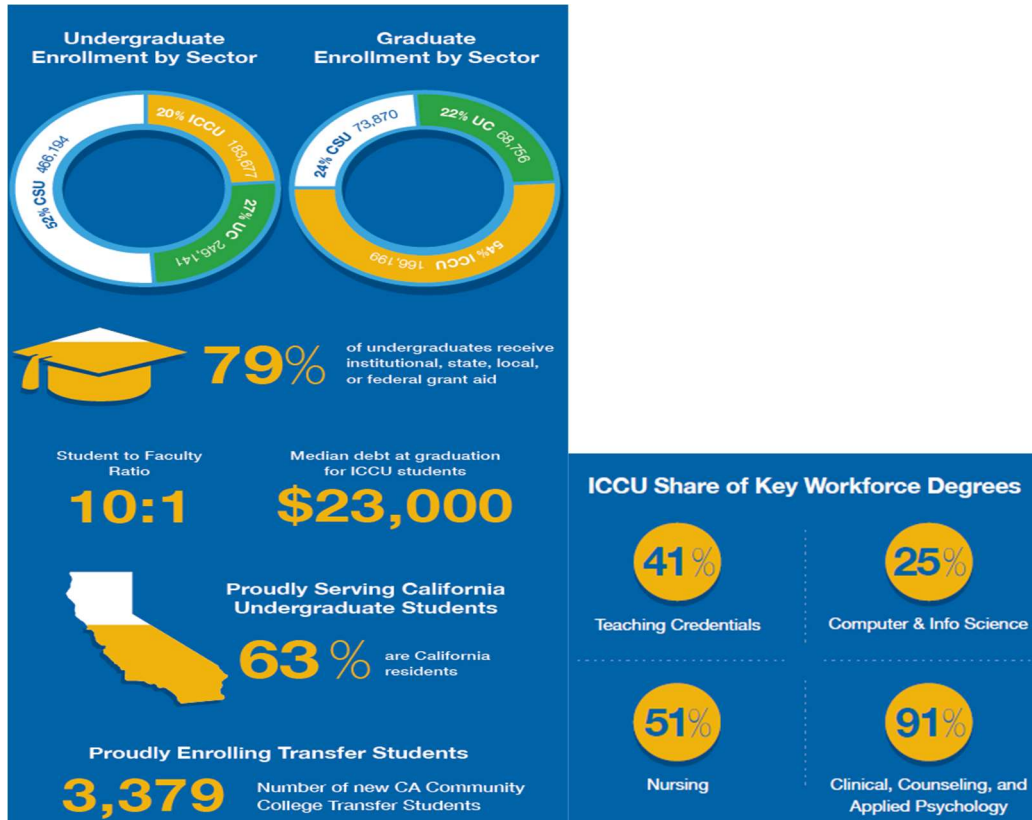
The ICCUs. California is home to 90 nonprofit ICCUs. According to the 2024 Impact Report on ICCUs, by the Association of Independent California Colleges and Universities (AICCU) (the organizational voice of the ICCUs), as a sector, 78% of ICCUs are Yellow Ribbon Institutions serving U.S. Veterans; 75% of ICCUs are Hispanic Serving Institutions (HSI) or emerging HSIs; and, 48% of students receiving a Cal Grant are first generation students.

Committee Staff notes that HSI is a federal designation defined by the Higher Education Act. To qualify as an HSI, an institution must meet the following criteria:

- 1) Accreditation: The institution must be a two- or four-year accredited college.
- 2) Low-Income Student Enrollment: It should enroll a significant proportion of low-income students.
- 3) Hispanic Student Enrollment: At least 25% of its full-time undergraduate student body must be Hispanic or Latinx.

The graphs below, from the 2024 AICCU Impact Report, show the impact of the ICCU sector for students and the State:





Source: 2024 AICCU Impact Report

Based on the data, it appears that ICCUs are actively working to increase diversity.

The Committee may wish to explore if the civil penalties in this measure are punitive, and ultimately, if students will negatively be impacted.

Legacy admissions. Legacy preference or legacy admission is a preference given by an institution or organization to certain applicants on the basis of their familial relationship to alumni of that institution. It has become controversial in college admissions.

The United States Supreme Court (SCOTUS) decision. In June 2023, SCOTUS announced a decision to curtail the use of race in college and university admissions, thus ruling affirmative action in college admissions unconstitutional. While SCOTUS did not directly opine about legacy admissions, according to the March 2024 Brookings Institute report, titled, *Who Uses Legacy Admissions*, special consideration admissions (sometimes referred to as legacy preferences) have come under increased scrutiny. The report finds that critics say that the practice of legacy admissions is not meritocratic and disproportionately benefits White students from wealthy backgrounds. The U.S. Department of Education has opened a civil rights investigation into Harvard University's legacy admissions practice. According to the report, a recent study of a dozen highly selective, private "Ivy plus" colleges found that legacy admissions are an important mechanism driving higher admissions rate among the richest applicants.

According to the Brookings Institute report, considering family connections in admission is contrary to the mission of a public college or university. The report signals that at the very least, colleges and universities that consider legacy status should clarify their policies for potential applicants and families. Further, the report suggests that policymakers and university leadership

should understand that the ending of legacy admissions practice will likely have only small effects on racial and socioeconomic diversity and would be unlikely to offset the effects of ending affirmative action at most colleges and universities. Legacy admissions are just a small piece of a college admissions system that tends to favor students from advantaged backgrounds.

Recent report on admissions. Pursuant to existing law, the AICCU released the most recent report on admissions on June 30, 2023. The report notes that of the 87 member ICCUs,* 10 are graduate-only institutions that are not subject to the requirements of the relevant Education Code. Five undergraduate-serving ICCUs do not participate in the Cal Grant program, and are not deemed a “qualifying institution” for purposes of the report. Two ICCUs (Stanford University and University of Southern California (USC)) submitted their own reports to the Legislature. Further, the AICCU report found that, of the 70 qualifying ICCUs, 65 reported that they did not provide any manner of preferential treatment in admissions on the basis of applicant relationships to donors or alumni for the 2022-23 AY. Five ICCUs reported that, for the 2022-23 AY, they did offer admissions to at least one applicant in a manner that meets reporting requires in existing law; the five ICCUs are as follows:

- Claremont McKenna College
- Harvey Mudd College
- Pepperdine University
- Santa Clara University
- Vanguard University of Sothern California

*Committee Staff notes that since the release of the June 2023 report, three more ICCUs officially became members of the AICCU.

The chart below, from the AICCU report, reflects the qualifying ICCUs that did provide some manner of preferential treatment to applicants on the basis of their relationship to donors of alumni of the institution for AY 2022-23:

Institution	(1)	(2)	(3)	(4)	(5)	(6)
Claremont McKenna College	0	0	0	21	14	14
Harvey Mudd College	0	0	0	N is too small to report	N is too small to report	N is too small to report
Pepperdine University	0	0	0	86	29	28
Santa Clara University	0	0	0	1,133	320	294
Vanguard University of Southern California	N is too small to report	0	0	66	38	34

Note: Student-level data reported with N of less than 10 is not reported. Numbers (1) through (6) correspond to EC Section 66018.5 subsection (c) pertaining to applicants.

Two ICCUs, Stanford University and USC submit their own reports. According to Stanford’s June 2023 report:

Most students who apply to and are admitted to Stanford each year have no previous connection to the university. Stanford's report found that undergraduates admitted to Stanford for Fall 2022, both first-year and transfer students, 21.5% were first-generation college attendees. Stanford also received applications from students whose families do have some form of existing connection to Stanford. In recent years there has been increased national interest in two categories of college applicants: (1) "legacy" students who are the children of alumni; and/or, (2) students whose family members have contributed philanthropically to a university.

At Stanford, "legacy" applicants are defined as the children of Stanford graduates at either the undergraduate or graduate level. With respect to philanthropy, Stanford does not document in admission files the donor status of all applicants' families. However, some applicants' files may contain a notation about their family's giving. In the large majority of these cases, the parents of the applicants are also graduates of Stanford. The report notes that, "philanthropy plays a significant role in supporting the opportunities available to all students at Stanford, including the ability to attend the university through our program of need-based financial aid."

Stanford's report also stated that, "in our holistic review process, applicants are evaluated based on the totality of their accomplishments and attributes, including consideration of 'legacy' or philanthropic factors, with academic excellence representing the primary criterion for admission. If an applicant to Stanford is not highly competitive academically, an existing family connection or historical giving to the university means nothing in the process."

Lastly, Stanford's report noted the following:

- 1) *Admission.* Among undergraduates admitted for Fall 2022 entrance, 263 were the children of Stanford graduates. For some of these students, their admission files also noted a history of family philanthropy. An additional 24 admitted students had no legacy affiliation with Stanford, but their admission files noted a history of family philanthropy that could be considered along with all other factors in the admission process. Together, those with either of these two characteristics totaled 287 students, or 13.5% of the admitted class.

As a point of comparison, first-generation college students represented 21.5% of the admitted class.

- 2) *Enrollment.* Among undergraduates enrolling in the university for the first time in Fall 2022, 244 were the children of Stanford graduates (again, for some of these students, their admission files also noted a history of family philanthropy). An additional 22 students had no legacy affiliation with Stanford, but their admission files noted a history of family philanthropy that could be considered along with all other factors in the admission process. Together, those with either of these two characteristics totaled 266 students, or 14.9% of the newly enrolling class in Fall 2022.

Committee Staff understands that first-generation college students represented 21.1% of the newly enrolling class.

The USC June 2023 report found that their admitted students who have a relationship with donors and/or alumni have academic credentials roughly comparable with all admitted students. No donor or alumni relationship guarantees an applicant's admission. An unqualified applicant, even one with a relationship to donors and/or alumni, will not be offered admission.

USC's admission decisions are made by the Office of Admission ("Admission") through a holistic analysis of an applicant's credentials including grade point average, the rigor of high school, standardized test scores, extracurricular activities, personal background, and a consideration of contribution to the diversity of the campus community.

The USC report identified that for the 2022-23 AY, it admitted 1,740 applicants (both first year and transfer students) who had relationships with alumni and/or donors. Most of the students in the reporting group had relationships with alumni; only a very small percentage had relationships with non-alumni donors. It is important to put those figures into context. Those 1,740 students with relationships to alumni and/or donors comprised 14% of all admitted applicants. By comparison, out of all admitted students:

- a) 12% are California Community College transfers;
- b) 22% are first-generation college students;
- c) 22% are students eligible for Pell Grants;
- d) 28% are under-represented minority students;
- e) 45% are California residents; and,
- f) 74% are students of color.

The USC report states that, "while we appreciate our alumni and donors and could not exist without them, those relationships do not guarantee admission to USC. In fact, those relationships will not help an unqualified applicant gain admission." The narrative below, reflects all the findings from the report.

- 1) The number of applicants with alumni/donor relationships who did not meet the institution's admission standards that apply to all applicants, but who were offered admission: One student - the student, a Syrian refugee, could not provide official proof of high school graduation. However, USC notes it had no reason to believe that the student did not graduate;
- 2) The number of applicants reported pursuant to paragraph (1) who accepted admission to the institution: One student.
- 3) The number of applicants reported pursuant to paragraph (2) who enrolled at the Institution: One student.
- 4) The number of applicants with alumni/donor relationships who met the institution's admission standards that apply to all applicants and who were offered admission: 1,739.
 - a) Freshman (alumni-related): 992
 - b) Freshman (non-alumni, donor-related): 52
 - c) Transfer (alumni-related): 680

- d) Transfer (non-alumni, donor-related): 15
- 5) The number of applicants reported pursuant to paragraph (4) who accepted admission to the institution: 1,192.
- a) Freshman (alumni-related): 560
 - b) Freshman (non-alumni, donor-related): 42
 - c) Transfer (alumni-related): 575
 - d) Transfer (non-alumni, donor-related): 15
- 6) The number of applicants reported pursuant to paragraph (5) who enrolled at the Institution: 1,125.
- a) Freshman (alumni-related): 532
 - b) Freshman (non-alumni, donor-related): 42
 - c) Transfer (alumni-related): 536
 - d) Transfer (non-alumni, donor-related): 15

Committee comments and amendments. The measure currently stipulates that violation of the provision of this measure, as specified, will result in a civil penalty equal to the amount the ICCU campus receives in the year before the violation occurred pursuant to the Cal Grant Program. Further, the measure stipulates that the civil penalty must be assessed and recovered by the BPPE and deposited into the established Cal Grant Account. However, all ICCUs that are fully accredited by the Western Association of Schools and Colleges (the premier accrediting body for this region of nation) are exempt from the BPPE. Further, the measure requires that the Civil Rights Department to post the names of the ICCU campuses that violate the provisions of this measure on its internet website, based on information provided to the Department by the BPPE.

With the above in mind, Committee Staff recommends, and the author as agreed, to accept the following amendment, which removes the BPPE as the entity to assess and recover funds.

Section 66018.45 (d) A violation of subdivision (c) shall result in a civil penalty equal to the amount the independent institution of higher education receives in the year before the violation occurred pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Chapter 1.7 (commencing with Section 69430) of Part 42) or the Cal Grant Reform Act (Chapter 1.5 (commencing with Section 69405) of Part 42), as applicable. The civil penalty shall be assessed and recovered by the ~~Bureau for Private Postsecondary Education~~ **California Department of Justice** and deposited into the Cal Grant Account, which is hereby established in the State Treasury.

~~(e) The Civil Rights Department shall post the names of the independent institutions of higher education that violate subdivision (c) on its internet website. The information shall be provided to the Civil Rights Department by the Bureau for Private Postsecondary Education.~~
The California Department of Justice shall post the names of the independent institutions of higher education that violate subdivision (c) on its internet website.

Further, the measure requires that on or before June 30, 2026, and annually thereafter, an ICCU campus must report to the Legislature on specified demographics of all admitted students at ICCU campuses and specified demographics of the admission rate of students who are provided a legacy preference or donor preference in admissions, as compared to the admission rate of students who are not provided a legacy preference or donor preference in admissions.

It is presently not clear why the report would be needed annually in perpetuity.

Moving forward the author may wish to include a sunset of the annual report.

Lastly, Committee Staff understands that the mandated demographics for admitted students, may not presently exist and could pose a challenge to implement.

Moving forward, the author may wish work with the appropriate stakeholders in order to determine the best data collection that may already exist and accomplish the goals of the measure.

Arguments in support. According to the Campaign for College Opportunity, co-sponsors of this measure, “Legacy admissions are known to exacerbate existing disparities in higher education. For example, at Notre Dame in 2020, 21% of freshmen were legacies compared to only 4% who were Black. Similar disparities were observed at Harvard, Stanford University, the University of North Carolina, and Cornell University. A 2020 study of Harvard’s admission procedures revealed that legacy applicants were five times more likely to be admitted than non-legacy applicants.”

Additionally, the Campaign for College Opportunity states that, “furthermore, an analysis conducted at Harvard University found that approximately three-quarters of White legacy admits would likely not have been accepted without their connections, underscoring the systemic advantages conferred by legacy status. These findings underscore the urgent need for legislation like AB 1780 to dismantle systems of privilege and promote fairness and equity in college admissions.”

Lastly, the Campaign for College Opportunity contends that, “at a time when equal opportunity to higher education is being challenged nationwide, due to the ongoing effects of the COVID-19 pandemic, a late FAFSA rollout, and a U.S. Supreme Court decision ending the use of race-conscious admissions practices, students are questioning their place in higher education and the value of a college degree. AB 1780 sends a strong message the California believes influence and money should not dictate who gets a seat at our esteemed colleges and universities and that all students deserve a fair shot at a college education regardless of family background, income-level, or the color of their skin. We urge your support for AB 1780 to help level the playing field and ensure that higher education is accessible to all California students who wish to pursue it.”

Arguments in concern. The AICCU, in their “oppose unless of amended” letter state that, “AB 1780 again proposes to address the use of legacy or donor-related admissions by creating a civil penalty for institutions if they provide donor preference or legacy preference in admission. The penalty would be equal to the amount of Cal Grant funds the students of the institution received the previous year and would be recovered by the Bureau for Private Postsecondary Education (BPPE). We do not believe that it is either appropriate or within the authority of BPPE to take on this role.”

Further, AICCU states that, “we are committed to working with the author’s office and stakeholders to develop appropriate language that ensures increased fairness of admissions process in a manner that: (1) Does not threaten low-income student access to the Cal Grant program or through other punitive actions that ultimately detract from the work of institutions to recruit, support, and graduate students who have been historically underrepresented in higher education; (2) Recognizes that our colleges and universities are compliance-driven institutions and proposes solutions that recognize this; (3) Provides appropriate disclosures, which could include posting on the California Student Aid Commission’s website if an institution offers preferential admission to an applicant based on their relationship to donors or alumni; (4) Clarifies and ensures institutions can collect data on the status of an applicant related to an alumnus for purposes that are not related to the actual determination of eligibility for admission but are still important, including eligibility for designated scholarships, communications, and/or programming, etc.; and, (5) Sets an implementation timeline that aligns with the academic calendar and allows sufficient time for the review and revision of institutional policies.”

Prior legislation. AB 697 (Ting), Chapter 514, Statutes of 2019, requires, by June 30 of each year from 2021 to 2024, the CSU Trustees, the UC Regents, and the appropriate governing bodies of each ICCU that is a qualifying institution as defined under the Cal Grant Program that provides preferential treatment in admissions to applicants with a relationship to donors or alumni, to annually report information about those admissions to the Legislature.

AB 1383 (McCarty), Chapter 522, Statutes of 2019, establishes a process in statute for the UC and the CSU to use in granting admissions by exception by prohibiting a UC or CSU campus from admitting a student by admission by exception unless the student's admission has been approved by a minimum of three senior campus administrators, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Americans Advancing Justice-Southern California (Co-Sponsor)

Campaign for College Opportunity (Co-Sponsor)

AAPI Equity Alliance

Alliance for a Better Community

California Charter Schools Association (CCSA)

Center for Asian Americans in Action

Center for Empowering Refugees and Immigrants

College for All Coalition

Diversify Our Narrative

Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners

Faith and Community Empowerment

Generation Up
Hispanas Organized for Political Equality (HOPE)
Kid City Hope Place
Koreatown Youth and Community Center
Latino and Latina Roundtable of The San Gabriel and Pomona Valley
Los Angeles United Methodist Urban Foundation
Southeast Asia Resource Action Center
Thai Community Development Center
uAspire
University of California Student Association

Opposition

None on file.

Analysis Prepared by: Jeanice Warden / HIGHER ED. / (916) 319-3960