

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1215 (McCarty) – As Amended March 22, 2021

**SUBJECT:** Public postsecondary education: University of California: admissions policy: systemwide protocols

**SUMMARY:** Requests the University of California (UC) Board of Regents (Regents) to adopt a policy of directing the UC Office of the President (UCOP) by specified dates to establish an array of systemwide protocols pertaining to the admissions of student athletes, admission by exception, and the audit of campus undergraduate admissions. Specifically, **this bill:**

- 1) Requests the Regents of the UC to adopt a policy directing the UCOP to establish systemwide protocols regarding the admission of students. The protocols are to become effective for the Fall 2023 admission cycle and will accomplish the following:
  - a) Prohibit by February 1, 2022, the consideration of an applicant's family or other personal relationship connections to university staff or faculty in any admission decision; and,
  - b) Prohibit by February 1, 2022 the communication between any personal employed in or connected with any UC campus development office and any UC campus admission office regarding any UC student applicant or any prospective UC student applicant;
- 2) Requests the Regents of the UC to adopt a policy directing the UCOP to establish systemwide protocols regarding the admission of students that require each UC campus to do the following by February 1, 2022:
  - a) Require at least two qualified admission reviewers to verify the athletic talent of an applicant before a student athlete is admitted. At least one of these qualified reviewers must be from a department other than athletics;
  - b) Requires each UC campus to develop and document reasonable standards for the level of athletic talent that prospective student applicants must possess for each UC team and individual sport. Requires the standards to be used to verify the athletic talent of prospective student athletes who are applying for admission;
  - c) Track the participation of student athletes in their recruited sport;
  - d) If a student athlete stops participating in their recruited sport after one year determine the reasoning and review the admission circumstance to identify evidence of inappropriate admission; and
  - e) Review all donations to UC athletic programs in order to determine whether donations made before or after a student athlete's admission may have influenced a UC athletic department's decision to admit the student athlete.
- 3) Requests the Regents of the UC to adopt a policy directing the UCOP to by June 1, 2022, and annually thereafter, select a random sample of student applicants admitted by exception and verify that each UC campus that admitted students by admission by exception record a

rationale for each admission. Recorded rationales must align with the guidance issued by UC's Board of Admission and Relations with Schools.

- 4) Requests the Regents of the UC to adopt a policy directing the UCOP to by July 1, 2022 to annually audit the undergraduate admission process of two campuses each year, culminating in the review of each UC campus once every five years.
  - a) The audit is to be conducted by UC systemwide audit staff, and will be made available to the public within 100 days of its completion, and shall include but is not necessarily limited to all the following:
    - i) Investigating and verifying student applicant's special talents;
    - ii) Investigating any communications regarding any applicant between admission staff and external parties;
    - iii) Investigation into whether inappropriate influence on student admission has taken place; and,
    - iv) Identify and document any and all inappropriate activities and deficiencies in the admission process.
  - b) Requires the UCOP within 120 days of the completion of an audit to determine whether the UC campus has taken corrective action to correct the deficiencies identified by the audit and to determine whether each UC campus has fully adopted all the UC systemwide admission policies in accordance with the protocols.
- 5) Requests the Regents of the UC to adopt a policy directing the UCOP to by May 1, 2023 and annually thereafter, to submit a report to the budget, appropriations, and education committees of both houses of the Legislature on admission policies and campus-wide standards for the previous year's admission cycle. The report will include, but is not limited to the following:
  - a) The protocols established by campus for verifying the athletic talent of all prospective student athlete applicants prior to admission;
  - b) The criteria and documented reasonable standards by campus for the level of athletic talent that all prospective student athletes are expected to have by sport, both team and individual;
  - c) The number of student athletes by campus who did not participate after one year and the reason each of them no longer participated;
  - d) The criteria by campus for the use of admission by exception and the rationale by campus for each admission by exception decision;
  - e) Documentation of all donations, by campus, to UC athletic programs and whether the donations were the result of the admission of a student athlete; and,
  - f) Documentation by campus of all reports of whether the relationship of an applicant or a familial relationship with staff or faculty influenced the admission decision of an

applicant and any documentation by campus of all reports of communication between the campus development office and a campus admission office regarding an applicant. The documentation will also include the campus' response to the above reports.

**EXISTING LAW:**

- 1) Establishes the UC as a public trust to be administered by the Regents and grants the Regents full powers of organization and governance subject only to legislative control as necessary to ensure the security of funds, compliance with terms of its endowments, and the 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 and assigns the mission of the UC and the California State University (CSU) (Education Code (EDC) Section 66010, et seq).
- 3) Expresses the Legislature's intent for the Regents of the UC and the Board of Trustees for the CSU when determining the standards and criteria for undergraduate and graduate admissions to their respective universities to do the following:
  - a) Develop a process which is fair and easily understandable;
  - b) Consider the use of criteria and procedures that allow student to enroll even if they are not deemed eligible due to circumstances beyond their control and when appropriate require the student to make up the deficiency;
  - c) Consult with California's diverse ethnic and cultural communities (EDC Section 66205 (a)).
- 4) Expresses the Legislature's intent for the UC and CSU to enroll a student body, as defined, that meets high academic standards and reflects the cultural, racial, geographic, economic, and social diversity of California (EDC Section 66205 (b)).
- 5) Stipulates no provision of the Donahoe Higher Education Act will apply to UC unless the UC Regents adopts the provision (Education Code (EDC) Section 67400).
- 6) Prohibits the CSU, and requests the Regents to prohibit the UC from admitting an applicant for admission by exception, as defined, unless one of the specified criteria are met. Requires campuses who admit students through admission by exception to record the employees involved in the evaluation of the application, establish a policy that articulates the standards by which admissions for exceptions are granted, and requires student athletes who are admitted by exception to participate in their chosen sport for at least one academic year. Requires a campus to report to the Legislature on information regarding admission by exception. Student may be admitted to a CSU or UC campus by admission by exception if:
  - a) The student's admission by exception is approved by three senior campus administrators; or,
  - b) The student, who is being admitted by exception, is a California resident who received a scholarship from the institution; or,

- c) The student, who is being admitted by exception, has been accepted into an education opportunity program on the campus (EDC Section 66022.5).

**FISCAL EFFECT:** Unknown.

**COMMENTS:** *Need for the bill.* According to the author, “for every student admitted through fraud, there was an honest and talented student that was rejected. Legislation is needed to ensure that there are adequate checks and balances to prohibit people from trying to cheat the system. This bill targets the utter lack of oversight and, more importantly, protects the sanctity of the admissions process.”

*Operation Varsity Blues.* On March 12, 2019, the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ) made dozens of arrests in what would become the largest admission scandal in the history of the United States. “Operation Varsity Blues” was a seven-year investigation by the FBI and DOJ into an alleged exam cheating and athletic recruitment scheme, which culminated in the arrest of 53 people on charges of racketeering, bribery, and wire fraud, for purposely seeking to defraud the admission process of elite universities and secure admission for their children. The orchestrator of the bribery scheme, William Singer, stated he unethically facilitated college admissions for children of more than 750 families in exchange for monetary compensation. Participants in the scheme manipulated the college admission process at 12 universities across the United States through various means including bribing coaches to admit students as athletes regardless of their athletic experience and, manipulating ACT/SAT scores. Included in the litany of universities involved in the scandal were two prominent public universities in California: UC Berkeley and the UC Los Angeles.

*Legislative Response to Operation Varsity Blues.* In response to the college admission scandal, members of the Legislature held a press conference on March 28, 2019, to express their dismay and concern that the scandal not only undermined the public’s trust in the college admission process, but that it highlighted a two tier admission process in which underqualified, wealthy individuals could buy coveted admission slots at some of the most popular and selective public universities in the state. To restore the public trust and ensure an equal admission process for all students, the Legislature introduced a bill package to provide checks and balances to the admission process to ensure merit and not wealth determine admissions. Included in the package was a request by Assemblymember Boerner Horvath for the California State Auditor to conduct an audit of the UC admission process at some of the more popular and selective UC campuses.

*California State Audit of the UC Admission Process.* On September 22, 2020, the California State Auditor (CSA) published an audit which reviewed the general undergraduate admission process and the undergraduate admission process for athletes at three UC campuses: UC Berkeley, UC Los Angeles and UC San Diego. The audit also examined the athletic admissions at UC Santa Barbara. The scope of the audit was to examine the admission practices to determine the risk for fraud and inappropriate activities at the four campuses. The audit concluded over a six-year period, the identified campuses admitted 64 wealthy and well-connected students as favors to donors, family, friends, UC employees, and denied more qualified applicants. Specifically, the audit found campuses lacked key criteria and standards to support admission decisions and campuses had not adequately ensured that reviews and faculty consistently and fairly evaluated applications. The CSA made 12 recommendations to the UC on an array of protocols and procedures the system should implement in order to safeguard its admission process from undue outside influence.

*UC's response to audit.* At the time of the CSA audit, President Napolitano had just stepped down as the UC President, and Dr. Michael Drake had just assumed the role of President over the UC. In his letter addressing the CSA audit, President Drake assured the public "the university is committed to safeguarding the integrity of its admissions practices". He asserted many of the finding in the CSA audit were similar to those identified by the UC's own internal audit and the UC was taking prompt action to address the issues raised in the CSA audit. President Drake emphasized, "I have a zero tolerance on matters of integrity and will do everything I can to ensure inappropriate admissions do not happen on any of our campuses".

With every agency that is audited, the CSA conducts a 60 day, six month, and one year assessment to determine if the agency has implemented the recommendations made by the auditor. 60 days has transpired since the publication of the CSA's UC Admission audit and in response the UC has taken action to implement a version of all, but four recommendations provided by the CSA.

*Committee Comments.* The UC is a constitutionally autonomous entity and is governed by the Board of Regents. Therefore, the Legislature may request that UC implement policies, but unless the Regents adopt a resolution requiring the UC to implement the procedures and policies, AB 1215 will be codified suggestions. As previously mentioned, the UC has responded to the CSA audit by implementing all, but four recommendations provided in the audit. President Drake issued a letter to the Chancellors of the UC requiring them to implement all but four recommendations in the CSA audit by January 15, 2021. The letter required Chancellors to implement all the suggested policies and procedures found in AB 1215, with the following exception,

Subdivision (d)(1) - Requests the Regents of the UC to adopt a policy directing the UCOP to by July 1, 2022 to annually audit, as specified, the undergraduate admission process of two campuses each year, culminating in the review of each UC campus once every five years.

The CSA recommendation requests the UC to conduct an audit of every campus at least once every three years. In the 60 day review of the UC's implementation of this recommendations, UCOP indicated they are evaluating the implementation of this recommendation. Due to the size and scope of the audit, UCOP has expressed the fiscal costs of conducting the audit is beyond their current budget allocations and their internal audit team is not sufficiently staffed to handle the scope of the audit.

*As the bill moves forward, the Author may wish to work with the UCOP to help alleviate their concerns by either permitting the State Auditor to conduct the audits or by providing a clear scope of the audit within a timeline the current audit staff at UCOP can accomplish.*

*Current legislation.*

AB 251 (Choi), pending on the Assembly Floor, would prohibit senior administrators, who work within or are associated with the defined offices, from being one of the three senior administrators tasked with approving students' admission by exception applications to a campus within the CSU and if adopted by the Regents of the UC system. The defined prohibited offices are: campus development, external affairs, fundraising, donor relations, alumni relations or alumni outreach.

AB 233 (Boerner Horvath), which will be heard by this Committee on April 8, 2021, urgently requests the UC Regents to require the UCOP, to establish various systemwide protocols and to require campuses to adopt various protocols regarding admissions.

*Previous Legislation.*

AB 1383 (McCarty) Chapter 522, Statutes of 2019 established a process by which the CSU and the UC may admit students by admission by exception, as defined, by prohibiting the campuses from admitting a student by exception unless the application is approved by three senior campus administrators or the applicants meets the specified criteria. Establishes reporting requirements and procedures by which a student may be admitted by admission by exception beginning with the admission cycle in 2019 for the 2020-2021 academic year.

AB 3374 (Committee on Higher Education), Chapter 129, Statutes of 2020, provided clarifying and non-controversial changes to various provision in the Education Code including changing the implementation date of AB 1383 (McCarty) Chapter 522, Statutes of 2019, from Fall 2019 to Fall 2020 for the 2021-2022 academic year.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

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