

Date of Hearing: June 29, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 416 (Hueso) – As Amended June 16, 2021

**SENATE VOTE:** 38-0

**SUBJECT:** Corrections: educational programs

**SUMMARY:** Requires the Department of Corrections and Rehabilitation (CDCR) to offer college programs to specified inmates, subject to an appropriation by the Legislature.

Specifically, **this bill:**

- 1) Requires CDCR to offer college programs to inmates with a general education development certificate or equivalent or a high school diploma and requires those college programs to only be provided by the California Community Colleges (CCC), the California State University (CSU), the University of California (UC), or other regionally accredited, nonprofit colleges or universities in California.
- 2) Provides that priority be given to colleges and universities that:
  - a) Provide face-to-face, classroom-based instruction;
  - b) Provide comprehensive in-person student supports, including counseling, advising, tutoring, and library services;
  - c) Offer transferable degree-building pathways;
  - d) Facilitate real-time student-to-student interaction and learning;
  - e) Coordinate with other colleges and universities serving students in the department so that inmate students who are transferred to another institution can continue building toward a degree or credential;
  - f) Coordinate with the CCC Rising Scholars Network, the CSU Project Rebound Consortium, the UC Underground Scholars Initiative, or other nonprofit postsecondary programs specifically serving formerly incarcerated students so that incarcerated students who are paroled receive support to continue building toward a degree or credential;
  - g) Do not charge incarcerated students or their families for tuition, course materials, or other educational components; and,
  - h) Waive or offer grant aid to cover tuition, course materials, or other educational components for incarcerated students.
- 3) Provides that accredited postsecondary education providers shall be responsible for:
  - a) Determining and developing curricula and degree pathways;
  - b) Providing instructional staff and academic advising or counseling staff; and,

- c) Determining what specific services, including, but not limited to tutoring, academic counseling, library, and career advising, shall be offered to ensure incarcerated students can successfully complete their course of study.
- 4) Requires that an inmate enrolled in a full-time college program pursuant to these provisions, consisting of 12 semester units or the quarter equivalent in credit-bearing courses leading to an associate's degree or a bachelor's degree, shall be deemed by CDCR to be assigned to a full-time work or training assignment.
- 5) Defines "California regionally accredited, nonprofit colleges or universities," for purposes of these provisions, as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both and that are formed as nonprofit corporations in this state and that are regionally accredited by an agency recognized by the United States Department of Education.
- 6) Makes the requirement that CDCR offer college programs to specified inmates subject to an appropriation by the Legislature.

**EXISTING LAW:**

- 1) Requires CDCR to implement a literacy program in every state prison. (Penal Code (PEN) Section 2053.1(a))
- 2) Requires CDCR to prepare an implementation plan for the literacy program, and request the necessary funds to implement it as follows:
  - a) The department shall offer academic programming throughout an inmate's incarceration that shall focus on increasing the reading ability of an inmate to at least a 9th grade level;
  - b) For an inmate reading at a 9th grade level or higher, the department shall focus on helping the inmate obtain a general education development certificate, or its equivalent, or a high school diploma;
  - c) The department shall offer college programs through voluntary education programs or their equivalent; and,
  - d) While the department shall offer education to target populations, priority shall be given to those with a criminogenic need for education, those who have a need based on their educational achievement level, or other factors as determined by the department. (PEN Section 2053.1(a)(1-4))
- 3) Requires CDCR to give strong consideration to the use of libraries and librarians, computer-assisted training, and other innovations that have proven to be effective in reducing illiteracy among disadvantaged adults. (PEN Section 2053.1(b))
- 4) Requires CDCR to determine and implement a system of incentives to increase inmate participation in, and completion of, academic and vocational education, consistent with the inmate's educational needs, including, but not limited to, a specified literacy level, a high school diploma or equivalent, completion of a community college or four-year academic degree, or a particular vocational job skill. (PEN Section 2053.2.)

- 5) Requires the Secretary of CDCR to appoint a Superintendent of Correctional Education, who shall oversee and administer all prison education programs. (PEN Section 2053.4.)

**FISCAL EFFECT:** The Senate Committee on Appropriations identified annual ongoing General Fund costs reported by CDCR of \$17.9 million for 141.6 new positions across the department and of \$2.2 million for a cooperative agreement with the CSU.

**COMMENTS:** *Author's Statement.* According to the author, “This bill seeks to protect California’s most vulnerable college student populations and ultimately implement two important safeguards in the Penal Code. First, this bill would ensure incarcerated students have access to face-to-face college instruction only provided by qualified, regionally non-profit higher education providers. In 2020, Federal administration granted incarcerated individuals the access to Pell Grants, which is a critical step in establishing equitable access to higher education. However, the extension of Pell Grant eligibility to incarcerated students has already greatly increased outreach to CDCR, particularly from for-profits seeking Pell Grant funding, potentially leaving these students to accrue courses with non-applicable or non-transferrable degree credits. Making this amendment to the Penal Code reassures that only programs that have the resources to support incarcerated students’ needs would be allowed to teach in California state prisons. Second, this bill would amend Title 15 in the Penal Code to recognize full-time enrollment in college as a full-time assignment. Our current laws demonstrate interest in providing general education for incarcerated individuals. However, the current regulations do not address the importance of education as a quality factor in reducing recidivism and increasing the odds of finding employment upon release.”

*Need for the bill.* This bill seeks to expand and improve the existing opportunities for post-secondary education in CDCR facilities. It would require CDCR to offer college programs provided by the CCC, the CSU, the UC, or other regionally accredited, nonprofit colleges or universities to inmates who have earned a GED certificate or a high school diploma. It also requires CDCR to prioritize partnerships with colleges and universities that provide face-to-face instruction, offer transferable degree-building pathways, and do not charge incarcerated students or their families for tuition or course materials, among other things. This bill also establishes the responsibilities for college education providers, including determining and developing curricula and degree pathways as well as providing instructional staff and academic advising or counseling staff. Finally, this bill requires CDCR, by regulation, to assign an inmate enrolled in a full-time college program to a full-time work or training assignment.

*Background.* SB 1391 (Hancock), Chapter 695, Statutes of 2014, expanded access to face-to-face community college courses for incarcerated students through collaboration between the CCC and the California Department of Corrections and Rehabilitation (CDCR). Under the initial policy and funding framework of SB 1391, four pilot colleges were selected to offer instruction inside prisons.

Subsequently, other colleges were able to leverage resources to provide courses inside state prisons in their local areas. In total, 19 colleges piloted credit bearing, face-to-face, degree building education programs at 34 of the 35 CDCR state prisons. Over 5,000 students are enrolled each semester in these courses. The 2018-19 budget also provided new resources (\$5 million one-time) to the CCC to support the creation and expansion of reentry programs for formerly incarcerated persons.

*Program growth and success.* A January 2020 report published jointly by Correction to College and Stanford Law School Criminal Justice Center called *Striving for Success: The Academic Achievements of Incarcerated and Formerly Incarcerated Students in California Community Colleges* documented the growth and efficacy of California's programs for incarcerated students. Eleven community colleges voluntarily provided existing data from spring 2018 and fall 2018 semesters. Six colleges (Bakersfield, Cerro Coso, Cuesta, Imperial Valley, Solano and Southwestern) provided data on their incarcerated students, for a total of 3,172 unique incarcerated students.

All students were enrolled in face-to-face degree-granting courses in a variety of prisons and yards, as California does not restrict college participation based on crime of commitment, security classification, or sentence length. Six community colleges (Chabot, Compton, Imperial Valley, Laney, Santa Rosa, and Shasta) provided data on their formerly incarcerated students, for a total of 384 unique formerly incarcerated students.

The authors observed that:

- 1) Demographically, the racial/ethnic composition of the incarcerated students is comparable to CDCR population, but reflects a much larger proportion of Black students than the community college system. Similarly, the age of incarcerated students and the CDCR population mirror one another, but the incarcerated students tend to be older than the students enrolled in the CCC system as a whole.
- 2) Incarcerated students outperformed their main campus and system-wide counterparts on grades, success rate and African American male success. Specifically, in both spring 2018 and fall 2018, almost half of incarcerated students who completed at least one course earned a term GPA of 4.0 for the semester. More than 80% of the spring and fall 2018 students received a term GPA of 3.0 or above. The median cumulative and median term GPAs for the incarcerated students was 3.5 or higher for both spring 2018 and fall 2018.
- 3) Of the 2,027 incarcerated college students in the sample who were enrolled in the spring 2018 semester, 1,178 (58.1%) persisted and enrolled in the fall 2018 semester. The authors note that the reasons why an incarcerated student may not have persisted are unknown and are often out of the student's control. An example given was that a student could be transferred to another yard within the same prison or to another prison where college programming is not available, placed in a job assignment that takes place at the same time as the college courses, or released from custody.

Compared to students enrolled in their same colleges and to all community college students statewide, incarcerated students are more likely to be part-time than full-time (where full-time status is defined as being enrolled in 12 units or more in a particular semester). The authors noted that most incarcerated individuals have mandated work assignments and other prison-imposed requirements that limit the number of college courses they can take.

*Arguments in Support:* According to the CCC Chancellor's Office (CCCCO), "The CCC currently serve more than 10,000 students in prisons operated by the CDCR. Every CDCR prison has at least one community college partner. Our students are on transferrable, degree-granting pathways that enable them to achieve their goals, pursue living wage careers, and transform themselves and their families. Higher education in prison is a proven way to reduce recidivism and increase social mobility, and the CCCs are proud to serve both our students and the state.

SB 416 will protect California's incarcerated students and ensure that the state continues to benefit from the reduced recidivism and greater social mobility that result from college in prison. In December 2020, Congress lifted the ban on Pell Grants for incarcerated students. This opens the door to for-profit institutions to enroll incarcerated students and take advantage of their new access to Pell Grants. Without legislation, incarcerated students could be offered a menu of non-transferrable courses from institutions that will not accept or support the students upon release. These outcomes would not serve the state or the students.

For the CCC, serving our incarcerated students is consistent with our mission and is a critical matter of equity. We owe our incarcerated students every opportunity to rebuild their lives and become the leaders of the future, for themselves and for all of us. SB 416 is part of that commitment. It aligns with state's investment in higher education and protects students no matter where they are engaging in their studies.”

*Double-referral.* SB 416 was heard in the Assembly Committee on Public Safety on June 15, 2021, where it passed with unanimous support.

*Current and prior legislation.* AB 417 (McCarty, 2021) authorizes the CCCCCO to establish a program, named the Rising Scholars Network, to enter into agreements with up to 50 community colleges to provide additional funds for services in support of postsecondary education for justice-involved students. AB 417 is currently pending hearing in the Senate Committee on Education.

SB 343 (Hancock) Chapter 798, Statutes of 2015, required CDCR to strongly consider the use of libraries and librarians in its literacy programs.

SB 1391 (Hancock), Chapter 695, Statutes of 2014, allowed the CCC to receive full funding for credit-course instruction offered in correctional institutions and sought to expand the offering of such courses.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

ACLU California Action  
Anti-recidivism Coalition  
California Association of Christian Colleges and Universities  
California Association of Christian Colleges and Universities (CACCU)  
California Attorneys for Criminal Justice  
California Community Colleges, Chancellor's Office  
California Department of Insurance  
California for Safety and Justice  
California Public Defenders Association (CPDA)  
Campaign for College Opportunity  
Drug Policy Alliance  
Ella Baker Center for Human Rights  
Fresno Barrios Unidos  
Initiate Justice  
Michelson Center for Public Policy

National Association of Social Workers, California Chapter  
San Francisco Public Defender  
San Jose-evergreen Community College District  
Student Senate for California Community Colleges  
UC Berkeley's Underground Scholars Initiative (USI)

**Opposition**

None on file

**Analysis Prepared by:** Kevin J. Powers / HIGHER ED. / (916) 319-3960