

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 233 (Boerner Horvath) – As Amended March 25, 2021

SUBJECT: Public postsecondary education: University of California: admissions

SUMMARY: Urgently requests the Board of Regents (Regents) of the University of California (UC) to require the Office of the President of the University California (UCOP), to establish various systemwide protocols and to require campuses to adopt various protocols regarding admissions. Specifically, **this bill:**

- 1) Requests the Regents of the UC to require the UCOP, by April 15, 2022 to establish and implement for the admission cycle beginning in August 2022, systemwide protocols regarding admission processes, which accomplish the following:
 - a) Require staff involved in admission decisions to report all attempts to influence admission decisions to their supervisors or to the director of undergraduate admissions; and,
 - b) Establish a culture of ethical conduct in admissions by providing regular trainings to admissions and development staff, conducting reviews of admissions decisions, and monitoring the admission office's communications about applicants to ensure no outside influence determines admissions decisions.
- 2) Requests the Regents of the UC to require the UCOP, by April 15, 2022 to implement for the admission cycle beginning in August 2022 a requirement that all campuses of the UC implement the following:
 - a) Document and implement a selection methodology that depicts how the campus will choose applicants for admission, including how campuses will select applicants who receive similar ratings from readers, and the rational if an applicant with a lower or uncompetitive rating is selected over an applicant with a higher rating;
 - b) Develop and implement a process to use during the admission process which identifies applicants who are deemed ineligible for admission, but have been selected for admission. Requires campuses to identify these applicants and record a rational for admitting these applicants;
 - c) Establish acceptable levels of proficiency for application readers. Provide training to readers to maintain the pre-determined acceptable levels of proficiency and create monitoring programs to ensure readers attain and maintain the pre-determined acceptable proficiency levels;
 - d) Report annually to the Board of Admissions and Relations on the efforts by the campus to maintain acceptable reader's proficiency levels, the consistency of those levels, and the frequency with which a reader's rating aligned to the campus guidelines for acceptable proficiency levels;

- e) Requires, if a campus does not accept and admit all transfer students, two application readers will review all transfer applications; and
 - f) Requires for all undergraduate applications that the second reader is not permitted to see the ratings of the first reader.
- 3) Requests the Regents of the UC to require the UCOP, by April 15, 2022 to implement for the admission cycle beginning in August 2022, a requirement that the undergraduate admission offices accomplish the following:
- a) Identify all campus departments that participate in or provide information for admission decisions;
 - b) Obtain, evaluate, and approve the criteria and process by which these identified departments use to rate and select applicants who are recommended by the departments for admission;
 - c) Annually obtain a roster from each department, identified in 3(a), that contains a list of faculty and/or staff who will participate in the admissions decision making process and their role in the decision process. Requires each department to ensure no single person is responsible for the decisions of any given department; and,
 - d) Ensure that individuals identified by the department who participate in the admission decision making process receive training on appropriate and inappropriate factors for admission decisions and have agreed to abide by the campus's conflict of interest policy as it pertains to admissions.
- 4) Requests the Regents of the UC to require the UCOP, by July 1, 2023 and annually thereafter, to provide to the budget, appropriations, and education committees of both houses of the Legislature a report pertaining to specific information on admission policies and campus – specific policies, including but not limited to:
- a) The process used by the UCOP to monitor campuses' admission processes to detect and present unfair or inconsistent practices and the effectiveness of this monitoring in identifying applicants who are admitted who do not meet eligibility criteria;
 - b) The proficiency standards established by campus for application reviews and how consistent the reader's ratings are in meeting these standards;
 - c) Any attempts, identified by a campus, to influence the admission decision and the university's response to these attempts; and,
 - d) The selection methodology employed by each campus for the selection of applicants for admission and the selection strategy employed by campuses when determining admission for applicants with similar ratings.

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 shall apply to the UC unless the UC Regents adopts the provision (Education Code (EDC) Section 67400).

FISCAL EFFECT: Unknown.

COMMENTS: *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: University of California, Berkeley and the University of California, 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 determined 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 University of California Admission Process. On September 22, 2020, the California State Auditor (CSA) published an audit which reviewed the general undergraduate admission process at three UC campuses: UC Berkeley, UC Los Angeles and UC San Diego. The audit also examined the athletic admissions at UC Santa Barbara, UC Berkeley, UC Los Angeles and UC San Diego. 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 readers of applications and faculty involved in admission decisions 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 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 by 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.

Need for the bill. According to the author, "The audit into UC admissions revealed that bright and hardworking students are being disadvantaged because they lack the wealth and connections of lesser qualified students, and/or lack the luck of getting lenient reviewers. We must do better. Judiciously codifying the recommendations suggested by the State Auditor's office will improve access, provide consistent admissions criteria in each campus, require regular internal audits, and ensure that admissions staff are properly trained. We must ensure that the UC admissions system can reliably live up to the caliber of student applying".

Committee Comments. Within 60 days of the CSA publication of the UC admission audit, President Drake sent a letter to the UC campus Chancellor's directing them to implement a majority of the recommendations made in the audit by January 15, 2021. Of those recommendations listed in AB 233, the only recommendation not currently being implemented by the UC is:

Subdivision (a) (2) – establish a culture of ethical conduct in admission by providing regular training to admissions and development staff, conducting reviews of admission decisions, and monitoring the admissions office’s communications about applicants to ensure no inappropriate factors influence admissions activities.

This specific recommendation from the CSA pertained to one campus specifically, UC Berkeley. The Auditor’s office explained that while this recommendation was listed as applicable to only UC Berkeley in the audit, it should be expanded to include all UC campuses. The recommendation would then require the UCOP to:

- 1) Provide ethical trainings to admission and development staff on proper conduct with regards to admissions;
- 2) Conduct annual reviews of all admission decisions to ensure the decisions are reflective of systemwide protocols for admission; and,
- 3) Monitor the conversations of the admission’s office to ensure no outside influences do not determine admission decisions.

The Author may wish to continue working with the appropriate policy committees to ensure the language in the bill is reflective of the intended recommendations by the California State Auditor.

AB 233 would request the UC Regents to require the UCOP to adopt a policy whereby two readers evaluate transfer applications if a campus does not admit all transfer students. According to the 60 day review, rather than implementing the CSA recommendation, the UC is instead implementing a second read of random samples of transfer applicants minus those applicants who receive guaranteed admission. The sampling method provides a cost saving solution when there are those applicants who are guaranteed admission based on transfer agreements with Community Colleges.

The UC is a constitutionally autonomous entity by which the Legislature has very little jurisdiction over their governance and structure. While the State does provide the UC billions of dollars each year in state funding for operations and in financial aid support for UC students, the Legislature can only request the Regents adopt policies regarding how the UC conducts business including admissions. Operation Varsity Blues and the CSA UC admissions audit did highlight areas where the UC’s admission’s process was in violation of the Legislature’s codified intentions for fair admissions based on a student’s abilities and not wealth or connections; AB 233 requests the UC Regents adopt protocols and reporting requirements to serve as a verification of the progress the UC has already made in implementing the recommendations of the CSA audit.

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 California State University (CSU) and if adopted by the UC Board of Regents (Regents), the University of California (UC) system. The defined prohibited offices are: campus development, external affairs, fundraising, donor relations, alumni relations or alumni outreach.

AB 1215 (McCarty), which will be heard by this Committee on April 8, 2021, requests the Regents to adopt a policy of directing 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.

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 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 provisions 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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