

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 251 (Choi) – As Amended March 8, 2021

SUBJECT: Public postsecondary education: admission by exception

SUMMARY: Prohibits 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.

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) Stipulates no provision of the Donahue Higher Education Act shall apply to the UC unless the Regents adopts the provision (Education Code (EDC) Section 67400).
- 3) Establishes the CSU system, made of 23 campuses, and bestows upon the CSU Trustees, through the Board of Trustees, the power, duties, and functions with respect to the management, administration, and control of the CSU system (EDC Section 66606 and 89030 et. Seq.).
- 4) 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: *Purpose.* After Operation Varsity Blues, in order to restore the public’s faith in admissions at the UC and by extension the CSU, the Legislature passed AB 1383 (McCarty) Chapter 522, Statutes of 2019, which sought to eliminate admission abuse and fraud. Existing law requests the UC and requires the CSU to establish policies and procedures for campuses to admit students by admission by exception if the application was either approved by three senior administrators or the student met additional criteria including receiving an institutional scholarship or being admitted by educational opportunity programs. While early versions of AB 1383 (McCarty) contained a narrow definition of who could approve the admission by exception applications, existing law defers to the expertise of the CSU and UC to determine which administrative officials on campus are qualified to make the admission decisions on behalf of the university.

According to the author, “AB 251 builds upon the solution enacted by AB 1383 by prohibiting senior campus administrators who engage in the admission by exception approval process from working in various departments identified by the California State Auditor’s audit of UC Admissions as improperly influencing admissions procedures. By closing this loophole, AB 251 will not only restore the public’s trust in the college admission process, but will also ensure there is a procedure in place to verify that prospective students are admitted by merit and not by who they know”.

Operation Varsity Blues. On March 12, 2019, the world became aware of what became the largest admission scandal in the history of the United States. “Operation Varsity Blues” was a seven-year investigation, orchestrated by the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ), 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. The manipulation of the college admission included students being admitted as athletes without prior participation in said sport or participation on the universities team, inflation of SAT/ACT scores and bribing college officials to secure admissions at over 12 universities located throughout the United States. 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 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. The package included AB 1383 (McCarty) and a request for the California State Auditor to conduct an audit of the UC admission process to remove any doubt of further admission impropriety.

California State Audit of the University of California Admission Process. In September 2020, the California State Auditor (CSA), published an audit which reviewed the general admission practices and the admission of athletes at three UC campuses: UC Berkeley, UC Los Angeles, UC San Diego, and the admission of athletes at UC Santa Barbara. The report concluded over a

six-year period, the identified campuses admitted 64 wealthy and well-connected students as favors to donors, family, friends, co-workers, and denied more qualified applicants. The report identified cases in which the admission office of a campus actively engaged with the campus development office to ensure students who were connected to donors or potential donors would receive admission to the university. Embedded in the 12 recommendations made by the CSA, is the recommendation for the UC Office of the President to establish protocols that prohibit communications between a campus's development office and its admission office about applicants and prospective applicants. The UC Office of the President has confirmed the system is actively implementing a majority of the recommendations from the CSA, including prohibiting communication between the campus's development office and the admission office about prospective applicants prior to a final admission decision.

Implementation of AB 1383. Beginning with the application process starting this year, the CSU campuses are required and UC campuses are requested to establish a policy that applies articulated standards to the campus's admission by exception decisions including procedural requirements and an explanation that supports the admissions as fair and appropriate. These policies are to be made available to members of the Legislature upon request. At this time all 23 CSU campuses have implemented policies that apply articulated standards to the admission by exception decisions. The UC's current systemwide admission by exception policy directs campuses to, at a minimum, follow procedures in compliance with Section 66022.5 of the Education Code.

The Education Code Section 66022.5 does not define who constitutes a senior administrator for purposes of approving an admission by exception. Instead the language empowers the institutions to define who will be responsible for approving these admission by exceptions. The CSU has indicated that while the California Code of Regulations does not define any employee classification as a senior administrator, campuses have interpreted this to mean an Associate Vice President, Vice President, President, Provost, or a Dean. In their current admission by exception policy, the UC identifies the admission director, another member of senior leadership in admission and /or enrollment management, and an administrator or faculty member external to the admission office will be the three "senior administrators" who will be tasked with approving all admission by exceptions.

Committee Comments. Committee Staff understands that the UC in recent months since the CSA audit was published, has taken steps in order to improve transparency and restore the public trust in their admission process. As mentioned earlier, the UC Office of the President has directed campuses to implement an array of recommendations from the CSA, including prohibiting communications about applicants between the admissions office and the development office during the application process. Therefore, one could assume the UC is already in compliance with this bill as they are already prohibiting those affiliated with the development office, which often includes fundraising and alumni relations, from participating in the application process. However since the development office is not always the only department charged with campus development, external affairs, fundraising, donor relations, alumni relations or alumni outreach at the UC or the CSU, AB 251 removes any doubt of undue or improper influence on admission decisions by prohibiting staff associated with external relation activities from providing an admission decision for incoming students.

Related Legislation. In response to the CSA's audit on UC admissions, the Legislature has introduced a package of bills which would request the UC to implement an array of recommendations from the audit.

AB 233 (Boerner Horvath), pending a hearing in this Committee, urgently requests the Regents require the Office of the President of the UC (UCOP) to establish systemwide protocols on admissions and to submit a report to the Legislature on admissions protocols on or before July 1, 2023, and annually thereafter.

AB 1215 (McCarty), pending a hearing in this Committee, requests the Regents to adopt a policy of directing the UCOP to establish systemwide protocols on admissions, as specified, no later than February 1, 2022.

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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