

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 603 (Cervantes) – As Amended March 2, 2023

**SUBJECT:** Public postsecondary education: diversity: report

**SUMMARY:** Requires by July 1 of each year, for the Board of Governors of the California Community Colleges (CCC), and the Board of Trustees of the California State University (CSU), and requests the Board of Regents of the University of California (UC) to publish a report on the diversity of the student body and the governing board of their respective segments.

Specifically, **this bill:**

- 1) Requires by July 1 of each year, for the Board of Governors of the CCC, and the Board of Trustees of the CSU, and requests the Board of Regents of the UC to publish a report on the diversity of the student body and the governing board of their respective segments.
- 2) Clarifies the report specified in (1) will contain, but is not limited to, information on the race and ethnicity of the student body and the governing board. The purpose of the report is to determine how representative the governing board is of the student body.
- 3) Requires the report specified in (1) to be posted on an internet website of the respective segment and submitted to the Legislature, as specified.

**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 UC 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) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts (EDC Section 70900).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of the measure.* As expressed by the author, “California’s public higher education system is the largest and among the most diverse in the entire nation. Seventy-eight percent of California’s public college students are racially and ethnically diverse, with forty-five percent of students identifying as Latino, five percent identifying as Black, seventeen percent

identifying as Asian American, Native Hawaiian, and Pacific Islander, seven percent identifying as Native Indian and Alaska Native, and four percent identifying with two or more races. Unfortunately, the diversity in race, ethnicity, gender, and sexual orientation and gender expression in the student bodies are not fully reflected in the decision-making bodies of the Board of Regents of the University of California, the Board of Trustees of the California State University, and the Board of Governors of the California Community Colleges. Assembly Bill 603 would require the CCC Board of Governors and CSU Board of Trustees, and request the UC Board of Regents, to provide the Legislature with an annual report on the diversity of their governing boards and how they compare to the diversity of the student bodies that they serve. This will provide the public and the Legislature with more transparency on the diversity of each of the governing boards of each of the segments of California's public higher education system and its student bodies."

*Governing boards of public postsecondary institutions.* The CCC system is the largest institution of higher education institution in the United States. The CCC serves 1.8 million students, who attend 116 community colleges throughout the state. The CCC is governed by both a statewide Board of Governors and a locally elected board of trustees who govern geographical areas known as a district, which are often comprised of one or more community colleges. According to the Community College League of California Trustees' Handbook, the Board of Governors was created in 1967 and was delegated the following responsibilities of governance: establishing policy and regulations, interacting with the Legislature and federal and state organizations, and selecting a Chancellor for the system. The Board of Governors is comprised of 18 voting members, 17 of whom are appointed by the Governor and the eighteenth member is the Lieutenant Governor. The other 17 members include two student representatives, two faculty members, one classified staff, two members who were previously elected to local governing boards, and 10 members of the public. Education Code Section 71002 makes clear that when the Governor selects the members of the Board of Governors, they should consider the diversity of California to ensure the Board of Governors is reflective of the diversity of California and, to the extent possible, should include disabled persons and veterans.

Established in 1875 as a college for teachers in San Francisco, the CSU has since expanded to include 23 campuses that currently enroll 486,000 students. The CSU provides nearly half of the bachelor's degrees in the state and has an alumni base of over 3 million students and counting. To oversee the nation's largest four-year public university, the State established the CSU Board of Trustees. The 23 campuses of CSU are governed by campus presidents and a 25-member Board of Trustees. While the campus presidents oversee the day-to-day operations of their campus, the Board of Trustees is endowed with the authority to adopt regulations and policies pertaining to the overall operations of the CSU including: educational policy decisions, budgeting, and campus planning. The 25 members of the Board of Trustees is comprised of 19 members who are appointed by the Governor, one member who is appointed by the CSU alumni association, and five ex-officio trustees including the Governor of California, the Lieutenant Governor of California, the Speaker of the Assembly, the State Superintendent of Public Instruction, and either the Interim or the Current Chancellor of the CSU as appointed by the Board of Trustees. The 19 members appointed by the Governor include two students attending a CSU campus, one tenured faculty, and 16 members of the public.

Adopted in 1879, Article IX Education Section 9, established the UC as a public trust university to be administered by the Board of Regents of the UC with full powers of organization and government. As the only constitutionally independent public university system, the governance

structure of the UC is enumerated in the constitution and limits the oversight and operational control of the Legislature in the day-to-day activities of operating the university system. The UC is a system of 10 campuses, five medical centers, and three affiliated national laboratories; which are overseen and governed by the UC Board of Regents. Similar to the CSU Board of Trustees, the UC Board of Regents is a 25-member board, with seven ex-officio members and 18 members appointed by the Governor. The seven ex-officio members include the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the President and Vice President of the UC alumni association, and the President of the UC, as appointed by the Board of Regents. The California Constitution authorizes the UC Regents to appoint to the board a student attending a UC campus and a member of the faculty to represent the faculty and student voices respectively. Furthermore, the State Constitution enumerates that the Regents will be persons who broadly reflect the economic, cultural, and social diversity of the state, including ethnic minorities and women: however, this distinction is not intended to create formulas or rations to be applied in the selection of the Regents.

*Population demographics of public postsecondary institutions.* Each of the governing boards of the CCC, CSU, and UC oversee the operations of campuses that provide education to students and jobs to thousands of academic professors and staff. As delineated in the Master Plan for Higher Education of 1960, the CCC is an open-access community college and therefore accepts 100% of its applicants. In determining admission, Education Code 66205 states it is the intention of the Legislature for the CSU and the UC to attempt to enroll a student body that meets the high academic standards and reflects the cultural, geographic, economic, and social diversity of California.

Each of the three segments collects data on the diversity of their population aggregated by gender and ethnicity/race. The ethnic diversity of the student population of the three public higher education institutions for the fall of 2022 was as follows:

Segment Population	Campus Population Demographics
California Community Colleges Total Student Population: 1,285,731	<ul style="list-style-type: none"> <li>• African –American – 38,326 or 5.49%</li> <li>• American Indian/Alaskan Native – 2,359 or 0.34%</li> <li>• Asian – 70,356 or 10.10%</li> <li>• Filipino – 15,943 or 2.28%</li> <li>• Hispanic – 360,650 or 51.66%</li> <li>• Pacific Islander –2,453 or 0.35%</li> <li>• White Non-Hispanic –152,298 or 21.85%</li> <li>• Two or more races (Multi-ethnicity) – 54,455 or 4.24%</li> </ul>
California State	<ul style="list-style-type: none"> <li>• African –American – 19,139 or 4.03%</li> </ul>

<p>University: Total Student Population: 474,601</p>	<ul style="list-style-type: none"> <li>• American Indian/Alaskan Native – 908 or 0.19%</li> <li>• Asian – 77,568 or 16.34%</li> <li>• Hispanic – 223,854 or 47.16%</li> <li>• Native Hawaiian and other Pacific Islanders – 1,503 or 0.32%</li> <li>• White Non-Hispanic – 100,701 or 21.21%</li> <li>• Two or more races (Multi-ethnicity) – 20,115 or 4.2%</li> </ul>
<p>University of California: Total Student Population: 294,309</p>	<ul style="list-style-type: none"> <li>• African – American – 13,377 or 4.5%</li> <li>• American Indian/Alaskan Native – 1,564 or 0.5%</li> <li>• Asian – 94,779 or 32.2%</li> <li>• Hispanic – 66,065 or 22.5%</li> <li>• Pacific Islander – 784 or 0.3%</li> <li>• White Non-Hispanic – 665,240 or 22.2%</li> </ul>

Source: The CCC Data Mart, CSU enrollment dashboard, and the UC Data Center.

As previously mentioned, a campus population is not solely comprised of students, and when examining the diversity of a college campus, one must examine the employees of the campus as well. In the last decade, the State has made significant financial investments to increase faculty diversity at public higher education institutions. In the 2022-2023 budget, the Governor and the Legislature invested \$12.7 million to assist with equal employment opportunities at the CCC. In 2021, 24.6% of UC faculty identified as a race other than white. In 2021, 51% of CSU faculty identified as a race other than white. In fall 2022, 28% of the CCC faculty identified as a race other than white. Nonacademic staff population employed by the public higher education segments identified in higher percentages than their academic counterparts as a race other than white. In 2022, 59% of the CCC nonacademic staff identified as a race other than white. In 2021, 52% of the CSU nonacademic staff identified as a race other than white, and 52.4% of the UC nonacademic staff identified as a race other than white.

*Arguments in support.* As explained by the Campaign for College Opportunity, “addressing disparities in racial and ethnic diversity on these decision-making bodies and ensuring that these entities are representative of the student populations that they serve cannot be fully achieved without the ability for new appointments to be informed by timely and accurate data on the diversity of our student populations and their corresponding governing board. Data transparency and timely reporting as required by AB 603 would help address this issue and help us understand how representative the governing board is of its student body, ultimately promoting greater leadership diversity and inclusion across our state's public higher education system.”

*Committee comments.* AB 603 (Cervantes) seeks to acquire diversity information on student populations and the governing boards to compare the diversity of the governing boards with the

diversity of the institutions' student populations. The oversight and governance of the CCC, CSU, and UC governing boards do not chiefly extend to issues or matters that impact the student population. The governing boards have jurisdiction over the entire population of the campus and make decisions where faculty and staff voices are heard along with students.

*Therefore if the author's intentions are to ensure the diversity of boards matches the population of those they govern, the author may wish to extend the report to include the diversity breakdowns of staff and faculty populations.*

Furthermore, the Committee may wish to examine what will transpire after the data is collected. Unlike faculty diversity, where the Legislature can establish financial incentives to provide equal employment opportunities for academic staff, the governing boards are appointed by the Governor and approved by the California State Senate. Therefore, to increase diversity, the decision truly falls to one individual. Legislative intervention would be discouraged as previous iterations of diversity inclusion on boards have been struck down by the judicial system. SB 826 (Jackson) Chapter 954, Statute of 2018, sought to increase the membership of women on corporate boards by requiring boards to have at least one or more women members depending on the number of seats on the board. While well intended and applauded as a step towards increasing the diversity in representation on corporate boards, SB 826 (Jackson) was ruled to be in violation of the equal protection clause of the California Constitution by the Superior Court for the County of Los Angeles. The ruling was issued in May of 2022 and is recorded in *Crest v. Padilla (2022)*, Cal. Supr. Ct. L.A.

AB 979 (Holden) Chapter 316, Statutes of 2020, sought to increase diversity on corporate boards by requiring the boards to have at least one or more members from an underrepresented community depending upon the size of the board. AB 979 (Holden), was also ruled as unconstitutional as it violated the equal protection clause of the California Constitution. The ruling was issued in April of 2022 and was recorded in *Crest v. Padilla (2022)*, Cal. Supr. Ct. L.A. Furthermore, Proposition 209 eliminated state and local government's ability to provide preferential treatment on the bases of race, sex, color, ethnicity, or national origin.

Should the report authorized by AB 603 (Cervantes) lead to changes in the structure or composition of the board, it is likely those changes would be seen as a violation of Proposition 209. However, AB 603 (Cervantes) only wishes for data to be collected and does not actually address how the data will be used in the future with regard to the composition of the governing boards of the CCC, CSU, and UC.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Campaign for College Opportunity

### **Opposition**

None on file.

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