
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No:	SCA 16	Hearing Date:	April 4, 2018
Author:	Moorlach		
Version:	February 16, 2018		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Educational expenses: education savings accounts: University of California admissions

NOTE: This measure has been referred to the Committees on Education and Elections. A "do pass" motion should include referral to the Committee on Elections.

SUMMARY

This measure proposes to amend Article IX of the State Constitution to: (1) allow the state to disburse funds and other public benefits to educational institutions irrespective of their religious affiliation, and (2) add admissions priority for California residents to the controls afforded to the Legislature over the University of California (UC).

BACKGROUND

Section 8 of Article IX and Section 5 of Article XVI of the California Constitution both bar state support for religious schools. Put simply, these sections state that no public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of officers of the public schools.

Section 9 of Article IX of the California Constitution delegates to the Regents of the UC "full powers of organization and government". This autonomy is subject to specified areas of legislative control—those necessary to insure the security of its funds and compliance with the terms of the endowments of the university and certain competitive bidding procedures.

ANALYSIS

This measure proposes to amend Article IX of the State Constitution in the following ways:

- 1) Notwithstanding Section 8 of Article IX and Section 5 of Article XVI, allow the State, and every agency or political subdivision of the State, to disburse funds pursuant to an agreement between the State and a parent or legal guardian of an eligible child for tuition and education related expenses, as provided by statute, and to provide tax or other public benefits to educational institutions, irrespective of religious affiliation, to further the purposes of Section 1 of Article IX of the State Constitution.
- 2) Add providing admissions priority for California residents to the controls afforded to the Legislature over the UC.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “College graduation rates are significant indicators about future earning power—putting Black and Latino students at a huge long-term disadvantage in earning power and upward economic mobility.

As such, Black and Latino students face higher debt burdens to attend and graduate from college. Of those college students who borrowed money, 76% and 57% of Black and Latino students took on debt while only 45% and 47% of Asian and White students did so.

SCA 16 and SB 1344 seek to address these inequalities by helping parents save for college and guarantee qualified student’s admission to the University of California and California State University. By giving priority to California students, qualified students would be given preference over out-of-state and foreign students.”

- 2) ***Companion legislation would create state voucher program and place restrictions on nonresident enrollment in public higher education.*** This constitutional amendment is a companion measure to SB 1344 (Moorlach), which would establish the Education Savings Account Act of 2020 and restrict the University of California (UC) and California State University from admitting nonresident students, as specified. SB 1344 would only become operative if this measure is approved as part of the November 2018 election. Under SB 1344, the state would use all of the funding currently apportioned to K-14 local educational agencies as required by the Proposition 98 Guarantee and award vouchers to parents who could then use the funding to cover tuition and other services at an eligible public or private school. The policy changes and state and local mechanisms required to implement this measure and SB 1344 are very complex and would profoundly change how public (and private) education is currently funded. Given that no one knows how many parents and schools would apply for vouchers or move their children from public to private schools, it is difficult to assess the impact of this measure and SB 1344 with any meaningful precision.
- 3) ***State funding for religious schools.*** In California, roughly 7.5 percent of students, totaling about 500,000, attend private schools. Of those students, many attend a private school that is affiliated with a church or religion. In most states, private school tuition is paid by parents, without significant government support or subsidy. Private schools tend to be costly, not generally tax-deductible, and heavily reliant on donations to support their capital needs. Some private school students may receive certain services from a public school, including services for a student with a disability or check-ins for a student that is home-schooled. The line between private and public schooling becomes more blurred when considering school voucher programs, which SB 1344 would establish. In these programs, parents receive state-funded vouchers for use toward payment of tuition costs at a private school. Because many private schools have a religious affiliation, considerations about the separation of church

and state arise. Like most states, California's constitution prohibits the use of public money for religious schools.

- 4) ***University of California autonomy.*** The University of California (UC) became a "public trust" in 1879 as part of a larger revision of California's Constitution. The new constitution gave the UC Board of Regents and its academic leaders and faculty an unusual level of autonomy from lawmakers. Previously, the UC was established in statute with a lone campus in Berkeley. After 1879, the Regents gained the exclusive power to operate, control, and administer the university, becoming a fourth branch of state government. This autonomy, however, does not give the UC the ability to operate without any regard for state lawmakers. The university generally must comply with state fiduciary laws that apply to all state agencies. Further, UC is substantially dependent on state funding, upon which the state often places certain requirements, restrictions, or incentives.
- 5) ***Admissions criteria at the higher education segments.*** The UC and the California State University (CSU) are responsible for setting specific admission criteria intended to reflect their respective eligibility pools. As a minimum criterion, both systems require resident high school students to complete a series of college preparatory courses known as the "A–G" series. While out-of-state and international students (nonresidents) are recognized as enhancing the college experience by bringing a diversity of backgrounds and perspectives to campuses, the state does not provide funding for nonresident students. Current law allows each segment to set nonresident enrollment levels and fees, requiring that nonresident fees, at minimum, cover marginal costs.
- 6) ***Concerns from the higher education segments.*** According to the University of California, "These companion measures would effectively prohibit UC from admitting nonresident students, thereby reducing cultural and geographic diversity on UC campuses and compromising the educational resources available to California students. In addition to eliminating a critical funding source for UC, the proposed legislation would undermine the governance structure of the University, potentially eroding the role of faculty and students in developing policy and upholding the academic mission of the University of California."

The CSU has expressed concern with this measure's companion legislation, SB 1344 (Moorlach). Regarding SB 1344, CSU states that it "...continues to prioritize admission for California residents, as evidenced by the fact that 95.5 percent of our undergraduate students come from California. In addition, the Board has adopted policies to ensure that in instances of impaction—where campus programs or entire campuses receive more fully qualified applicants than they have the capacity to serve—admission advantages be given to applicants from the local service area of the campus. Additionally, the Board recently adopted a formal redirection policy to ensure that eligible applicants denied admission to their choice campuses are provided the opportunity to attend a CSU campus that has space available."

7) ***Related Legislation***

SB 1344 (Moorlach) would establish the Education Savings Account Act of 2020 and restrict the University of California and California State University from admitting nonresident students, as specified, only if this Senate Constitutional Amendment is approved as part of the November 2018 election.

SUPPORT

Choice 2020
Letters from various individuals

OPPOSITION

California School Boards Association
California State PTA
University of California

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