

# STATE OF NEW YORK

---

4170

2023-2024 Regular Sessions

## IN SENATE

February 3, 2023

---

Introduced by Sens. GOUNARDES, MYRIE, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to prohibiting legacy preference and early decision admission policies at higher education institutions in this state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act may be known and shall be cited as  
2 the "fair college admissions act".

3 § 2. Legislative intent. a. The legislature hereby finds that there  
4 are significant income gains associated with postsecondary education  
5 degree attainment, with New York state residents with a bachelor's  
6 degree three times less likely to live in poverty than those with a high  
7 school diploma.

8 b. The legislature further finds that students who attend and graduate  
9 from a highly selective higher education institution in the state of New  
10 York are much more likely to earn salaries in the top income quintile  
11 than those who graduate from less selective institutions, furthering  
12 economic and social inequality.

13 c. The legislature further finds that within most highly selective  
14 higher education institutions in New York state, degree completion rates  
15 for students from low-income and working class family backgrounds are  
16 comparable to students from upper-income family backgrounds.

17 d. The legislature further finds that many four-year higher education  
18 institutions in New York state consider whether a prospective student is  
19 related to alumni as part of the admissions process.

20 e. The legislature further finds that providing preferential treatment  
21 to students related to alumni of a higher education institution is  
22 discriminatory in nature and disproportionately hurts students who come  
23 from working class and low-income families, have parents who did not

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03099-01-3

1 earn a bachelor's degree, are undocumented, are immigrants, and are  
2 members of historically underrepresented minority groups formerly denied  
3 entry into specific higher education institutions either as a matter of  
4 institution policy or the effect of historic underlying law and govern-  
5 ment practices.

6 f. The legislature further finds that 30 percent of bachelor degree  
7 granting institutions in the state of New York currently employ an early  
8 decision admissions policy that allows students to apply in the fall of  
9 their senior year and receive an application decision by December in  
10 exchange for committing to attend that institution and foregoing an  
11 opportunity to compare financial aid packages offered by competing  
12 institutions of higher education.

13 g. The legislature further finds that at a number of higher education  
14 institutions, particularly highly selective institutions with low admit  
15 rates, between 40 and 50 percent of enrolled students are admitted early  
16 decision, and early decision applicants are more than twice as likely to  
17 be admitted.

18 h. The legislature further finds that early decision admission poli-  
19 cies are discriminatory in nature, as they favor students with strong  
20 college advising and the ability to commit to a college or university  
21 without considering a financial aid package. They put first-generation  
22 students, students at under-resourced high schools, and students from  
23 working class and low-income backgrounds at a disadvantage because they  
24 lack awareness of the strategic benefit of applying early decision and  
25 do not have the luxury of committing to an institution without knowing  
26 the post-financial aid cost of attendance.

27 i. The legislature further finds that inequitable, unfair admissions  
28 policies and practices such as legacy preference and early decision are  
29 a significant factor behind disparities in college enrollment among  
30 students from historically underserved racial and economic subgroups  
31 compared to their more advantaged peers at selective higher education  
32 institutions.

33 j. The legislature hereby declares that a prohibition on legacy pref-  
34 erence and early decision admissions policies at degree-granting  
35 colleges and universities in the state shall further the goals of educa-  
36 tional, economic, and social equity, helping to diversify highly selec-  
37 tive institutions while closing achievement gaps between historically  
38 advantaged and disadvantaged groups, and shall commit to achieving the  
39 same with the following provisions of this act.

40 § 3. The education law is amended by adding a new section 239-c to  
41 read as follows:

42 § 239-c. Prohibition on legacy preference and early decision admission  
43 policies. 1. Definitions. As used in this section, the following terms  
44 shall have the following meanings:

45 (a) "Consider alumni/ae relation as a factor in admissions" shall  
46 refer to when an admissions application asks applicants to indicate  
47 where their relatives attended college and that such information is  
48 included among the documents that the higher education institution uses  
49 to consider an applicant for admission.

50 (b) "Early action" shall mean an admissions plan that allows a student  
51 to apply at an earlier stage of the admissions process and receive an  
52 expedited admissions decision but does not require such student to  
53 commit to attend such institution upon receiving a decision of admit-  
54 tance.

55 (c) "Early decision" shall mean an admissions plan that allows a  
56 student to apply at an earlier stage of the admissions process and

1 receive an expedited admissions decision that requires such student,  
2 absent unique circumstances stipulated in the early decision application  
3 or otherwise agreed to by the institution, to commit to attend a higher  
4 education institution should such student be admitted and to withdraw  
5 all other applications to other higher education institutions.

6 (d) "Higher education institution" shall mean the state university of  
7 New York, as defined in subdivision one of section three hundred fifty-  
8 two of this chapter, the city university of New York, as established in  
9 section sixty-two hundred three of this chapter, or any institution  
10 given the power to confer degrees in this state by the board of regents  
11 as provided in section two hundred eighteen of this article.

12 (e) "Legacy preference" shall mean a preference in admissions given by  
13 a higher education institution to applicants related by consanguinity or  
14 affinity to alumni of such institution.

15 2. Prohibition. No higher education institution in this state shall:

16 (a) consider alumni/ae relation as a factor in admissions; or

17 (b) execute an early decision policy for undergraduate admissions.  
18 Such prohibition shall not apply, however, to a higher education insti-  
19 tution that asks applicants about relations to alumni of such institu-  
20 tion after an offer of admission and financial aid has been accepted for  
21 the purposes of data collection and reporting. Furthermore, the prohi-  
22 bition herein described shall not be construed to apply to an early  
23 action policy as defined in paragraph (b) of subdivision one of this  
24 section.

25 3. Penalty. A violation of subdivision two of this section shall  
26 result in a civil penalty of a sum equivalent to ten percent of the  
27 number of full-time equivalent first year students enrolled at the high-  
28 er educational institution the year previous to the violation multiplied  
29 by such institution's published tuition and fees.

30 4. Dedication of penalty funds. All penalties paid pursuant to subdi-  
31 vision three of this section shall be assessed by the commissioner and  
32 deposited into the general fund of the state. Such monies shall then be  
33 used for the disbursement of tuition assistance awards by the higher  
34 education services corporation to eligible undergraduate students pursu-  
35 ant to the provisions of sections six hundred sixty-six, six hundred  
36 sixty-seven, six hundred sixty-seven-a, and six hundred sixty seven-c of  
37 this chapter.

38 § 4. This act shall take effect on the first of July next succeeding  
39 the date on which it shall have become a law. Effective immediately the  
40 addition, amendment, and/or repeal of any rule or regulation necessary  
41 for the implementation of this act on its effective date are authorized  
42 to be made and completed on or before such effective date.