

**SENATE . . . . . No. 1819**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Pavel M. Payano***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to advance fairness, integrity, and excellence in higher education admissions.

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PETITION OF:

NAME:

*Pavel M. Payano*

DISTRICT/ADDRESS:

*First Essex*

**SENATE . . . . . No. 1819**

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By Mr. Payano, a petition (accompanied by bill, Senate, No. 1819) (subject to Joint Rule 12) of Pavel M. Payano for legislation to advance fairness, integrity, and excellence in higher education admissions. Higher Education.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to advance fairness, integrity, and excellence in higher education admissions.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 15A of the General Laws is hereby amended by inserting after  
2 section 5A the following section:-

3 Section 5B. (a) For the purposes of this section, the following terms shall, unless the  
4 context clearly requires otherwise, have the following meanings:

5 “Early action”, an admissions plan that allows a student to apply at an earlier stage of the  
6 admissions process and receive an expedited admissions decision but does not require the student  
7 to pledge to attend the institution upon receiving a decision of admittance.

8 “Early decision”, an admissions plan that allows a student to apply at an earlier stage of  
9 the admissions process, receive an expedited admissions decision, and absent extenuating  
10 circumstances, requires the student to pledge to attend the institution upon receiving a decision  
11 of admittance.

12 “Endowment”, a fund or collection of funds that supports the operation of a higher  
13 education institution, and that is not wholly expendable by the institution on a current basis under  
14 the terms of the applicable gift instrument or as per the intent of the donor, trustee or board of  
15 directors of the higher education institution or related foundation.

16 “Higher education institution”, a public or private certificate- or degree-granting college,  
17 junior college or university, as authorized by the board of higher education pursuant to section 9.

18 “Legacy”, a candidate for admission to a higher education institution with a relative who  
19 attended or attends that higher education institution.

20 (b) Annually, not later than December 31, all 4-year, degree-granting higher education  
21 institutions shall transmit to the office of the attorney general and the department of higher  
22 education the following information annually:

23 (i) an averment as to whether the institution executed in the prior year an admissions  
24 preference or special policy for: (1) legacy applicants; (2) students related to any past, current or  
25 prospective donor; (3) students who apply early decision; and (4) students who apply early  
26 action;

27 (ii) the percentage of first year, full-time students enrolled at the higher education  
28 institution in the previous academic year who are members of the following separately  
29 disaggregated subgroups:

30 (1) students that receive a maximum federal Pell Grant;

31 (2) students that receive a less than maximum federal Pell Grant;

32 (3) students that receive a federal subsidized Stafford Loan but not a federal Pell Grant;

33 (4) students who are a legacy, with separate disaggregated reporting within by major  
34 racial subgroup, receipt of a maximum federal Pell Grant and receipt of a less than maximum  
35 federal Pell Grant;

36 (5) students admitted as per an early decision policy, with separate disaggregated  
37 reporting within by major racial subgroup, receipt of a maximum federal Pell Grant and receipt  
38 of a less than maximum federal Pell Grant;

39 (6) students admitted as per an early action policy, with separate disaggregated reporting  
40 within by major racial subgroup, receipt of a maximum federal Pell Grant and receipt of a less  
41 than maximum federal Pell Grant; and

42 (7) students admitted to the institution through regular decision, with separate  
43 disaggregated reporting within by major racial subgroup, receipt of a maximum federal Pell  
44 Grant and receipt of a less than maximum federal Pell Grant;

45 (iii) the number of student applicants identified as having legacy status and their  
46 admission rate, as well as the percentage of admitted legacy students among all admitted  
47 students, and their enrollment rate;

48 (iv) the number of student applicants who apply early decision and early action, and  
49 admission rate of each; and

50 (v) public service fee amounts contributed by each higher education institution per annum  
51 to the Higher Education Opportunity Trust Fund, established in section 35TTT of chapter 10.

52 (c) The office of the attorney general and the department of higher education shall make  
53 the information received pursuant to subsection (b) publicly available, disaggregated by higher  
54 education institution.

55 (d) No higher education institution shall as a matter of written or unwritten policy, absent  
56 paying a public service fee in an amount consistent with the provisions of subsection (e):

57 (i) consider legacy status as a factor in admitting a student applicant;

58 (ii) consider a student applicant's relationship to a past, current or prospective donor to  
59 the higher education institution as a factor in admitting a student applicant; or

60 (iii) carry out an early decision plan.

61 (e) (1) A higher education institution that violates a provision of this section shall pay a  
62 public service fee to the Trust established in section 2 of a sum calculated according to the  
63 following schedule:

64 (i) 0.01 per cent of its endowment for any offending higher education institution with an  
65 endowment per student of less than \$50,000, as reported in the higher education institution's  
66 most recent annual report;

67 (ii) 0.05 per cent of its endowment for any offending higher education institution with an  
68 endowment per student of greater than \$50,000 but less than \$500,000, as reported in the higher  
69 education institution's most recent annual report;

70 (iii) 0.1 per cent of its endowment for any offending higher education institution with an  
71 endowment per student of greater than \$500,000 but less than \$1,000,000, as reported in the  
72 higher education institution's most recent annual report;

73 (iv) 0.15 per cent of its endowment for any offending higher education institution with an  
74 endowment per student of greater than \$1,000,000 but less than \$2,000,000, as reported in the  
75 higher education institution's most recent annual report;

76 (v) 0.2 per cent of endowment for any offending higher education institution with an  
77 endowment per student of greater than \$2,000,000, as reported in the higher education  
78 institution's most recent annual report.

79 (2) No offending higher education institution with endowment assets in excess of \$1.5  
80 billion shall pay a public service fee of less than \$1 million. No college with endowment assets  
81 in excess of \$2 billion shall pay a public service fee of less than \$2 million.

82 (3) Where a higher education institution is part of a university, the calculations required  
83 by paragraph (1) shall be based on the endowment of the university and associated endowment  
84 funds.

85 (f) (1) The attorney general shall establish procedures and promulgate regulations to carry  
86 out the provisions of this section. The attorney general may investigate compliance by individual  
87 higher education institutions and assess public service fee amounts for non-compliance in  
88 accordance with subsection (e).

89 (2) The attorney general shall provide written notice to any higher education institution  
90 that fails to timely comply with the established reporting requirements of subsection (b). The  
91 attorney general shall notify higher education institutions that failure to respond within 2 weeks  
92 of the written notice without just cause may result in the assessment of the public service fee in  
93 subsection (e).

94 (3) No higher education institution shall pay a public service fee in excess of the  
95 applicable amount in the schedule in subsection (e) in any 1 calendar year.

96 (4) All monies collected pursuant to this section shall be deposited in the Higher  
97 Educational Opportunity Trust Fund, established in section 35TTT of chapter 10.

98 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after  
99 section 35SSS the following section:-

100 Section 35TTT. (a) There shall be established and set up on the books of the  
101 commonwealth a Higher Education Opportunity Trust Fund, for the purposes of supporting  
102 certificate and degree attainment at select public community colleges within the commonwealth.  
103 The fund shall be administered by the executive office of education, as directed by the fund  
104 board of trustees established in subsection (b) and in consultation with the department of higher  
105 education. No expenditure from the fund shall cause the fund to be in deficiency at the close of a  
106 fiscal year. Monies not expended at the end of each fiscal year shall remain in the fund and shall  
107 not revert to the General Fund. The fund shall not be subject to appropriation.

108 (b) The fund shall be managed by a board of trustees, which shall have general  
109 supervision of the trust and shall direct all expenditures from the fund to public community  
110 colleges within the commonwealth in its discretion. The full duties and obligations of the board  
111 shall be set forth in a declaration of trust to be adopted by the board. The board of trustees shall  
112 consist of 7 voting trustees, including: (i) the commissioner of the department of higher  
113 education or a designee; (ii) the commissioner of the department of elementary and secondary  
114 education or a designee, and (iii) 5 additional voting trustees to be appointed by the governor,  
115 including: 1 person with demonstrated expertise in elementary and secondary education, 1

116 person with demonstrated expertise in higher education, 1 person with demonstrated expertise in  
117 representing the education workforce as a leader in a labor organization, 1 person who is an  
118 employee of a Massachusetts community college, as defined in section 10 of chapter 15A, and 1  
119 person who is an employee of a private higher education institution subject to subsection (e) of  
120 section 5B of chapter 15A. The appointed voting trustees shall serve for terms of 2 years.  
121 Trustees shall be eligible for reappointment. The voting trustees shall elect 1 of the trustees to  
122 serve as the chair. There shall be 6 non-voting trustees, 2 of whom shall be appointed by the  
123 senate president, 1 of whom shall be appointed by the minority leader of the senate, 2 of whom  
124 shall be appointed by the speaker of the house of representatives and 1 of whom shall be  
125 appointed by the minority leader of the house of representatives.

126 SECTION 3. This act shall take effect on July 1, 2023.