



# THE FUTURE OF FAIR ADMISSIONS

## *ISSUE BRIEF 2: LEGACY PREFERENCES*

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This issue brief is the second of three to be released by Education Reform Now in conjunction with the Supreme Court’s hearing of two cases challenging the legality of race conscious admission policies. *The Future of Fair Admissions* series identifies areas of the college admissions process that demand reform in order to provide a fairer pathway to opportunity for all students. Issue Brief One addressed early decision policies. Issue Brief Three will address transparency and accountability.

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## EXECUTIVE SUMMARY

**L**egacy preferences provide a birthright advantage to the children of alumni in the college admissions process. They represent a textbook example of systemic racism, since most beneficiaries of legacy preferences are white, while students of color and students from low- and middle-income households are much more likely to be the first in their families to go to college. After a century of use, eliminating legacy preferences is long overdue, but it will be absolutely necessary for them to end should the Supreme Court bar the consideration of race in admissions, as it is expected to do.

## FINDINGS

1. Opposition to legacy preferences goes back to the 1960s and has come from both Republicans and Democrats.
2. More than 100 colleges and universities have stopped providing legacy preferences since 2015.
3. 75 percent of Americans and 89 percent of college admissions directors do not support the use of legacy preferences, an increase in both cases from pre-COVID polling.
4. 787 colleges and universities reported providing a legacy preference in 2020, which was approximately half of the four-year institutions that completed the Common Data Set. 80 percent of the 64 four-year colleges and universities that admit less than 25 percent of applicants provide an advantage to the children of alumni.
5. Three-quarters of public colleges and universities do not provide a legacy preference. There are just five states where a majority of the

public institutions of higher education offer an admission advantage to the children of alumni: Maryland, Pennsylvania, Massachusetts, Virginia, and Rhode Island. 16 flagship universities provide a legacy preference.

6. The children of alumni have a significant advantage in the admissions process at colleges with legacy preferences. At Harvard, legacy applicants with the highest academic ratings were more than twice as likely to be admitted than applicants who have equally high academic ratings but come from households with incomes below \$60,000.
7. Many highly ranked universities and colleges enroll more legacies than Black students. If the Supreme Court bans the consideration of race in college admissions and colleges do not end the use of legacy preferences, these enrollment gaps will likely grow even larger.

## RECOMMENDATIONS

1. Increase transparency by requiring disaggregated data reporting on legacy preference to the U.S. Department of Education.
2. Make revenue from Title IV federal financial aid conditional on the elimination of legacy preference.
3. Make revenue from state student aid conditional on the elimination of legacy preference.
4. Impose an additional tax on the institutions subject to the endowment tax if they provide a legacy preference and lower the tax for those that do not.



## INTRODUCTION

There are many barriers to college access for students from low-income households, students of color, and students who are the first in their family to go to college. Legacy preference, or providing an advantage to the children of alumni in the admissions process, is just one of them. Admittedly, this practice does less to prevent underrepresented students from going to college than does the high cost of college or a lack of academic preparation. The impact of legacy preferences tends to be strongest at wealthy universities and colleges that enroll a sliver of all college students and an even smaller sliver of underrepresented students. The entire Ivy League, for instance, enrolls fewer students with Pell Grants than Georgia State University does (see Figure 1).

### Pell Enrollment for All Undergraduates (2019-20)

Source: IPEDS

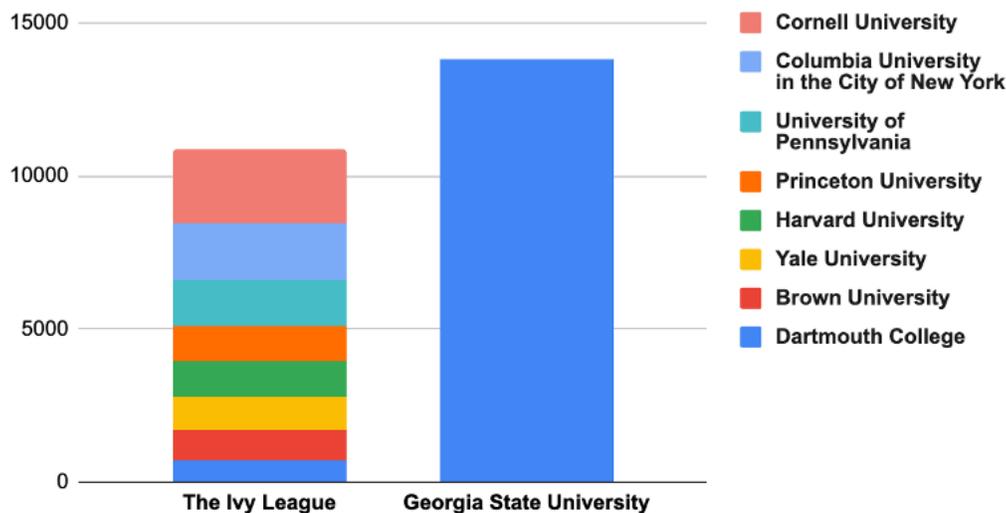


Figure 1

There are, however, several good reasons to eliminate the use of legacy preferences in college admissions. To begin with, although the highly selective universities and colleges where legacy preferences have the largest impact tend to enroll relatively few students, these institutions also serve, disproportionately, as the gateways to careers that have a great deal of influence in society and that represent a large portion of the wealthiest one percent of Americans, including doctors, lawyers, investment bankers, consultants, and entrepreneurs. Legacy preferences help to keep those positions of power restricted to those who have traditionally held them.

Eliminating legacy preferences has become more pressing with a Supreme Court decision likely in June 2023 on the cases brought by Students for Fair Admissions (SFFA) against Harvard University and the University of North Carolina, Chapel Hill. The justices are expected to bar colleges and universities from considering race in their admissions policies, which is almost certain to [reduce diversity at highly selective universities](#).<sup>1</sup> Colleges will need to implement race-neutral policies to make up some of the difference, and they will need to get rid of policies that reduce access for underrepresented students. Legacy preferences should be first on the list.

Additionally, elite universities should eliminate legacy preferences as a way to gain back Americans' trust. Even while more and more students aspire to go to universities that are highly ranked and wealthy (the two are not unrelated), the FBI's Varsity Blues investigation and the Harvard trial continue to drive the perception that the admissions process is rigged and that highly selective colleges do more harm than good for most Americans.<sup>2</sup> Getting rid of legacy preferences, which are despised by the Right and Left alike, is a way for elite institutions to show the country that they need not be elitist and that their primary mission is to serve society, not themselves.

Finally, it is important to eliminate legacy preferences because they are so obviously unethical and antithetical to the principles that America was founded on and continues to strive toward. It is time for colleges and universities to catch up to the 1770s and say goodbye to what essentially amounts to an aristocratic system, in which a few children inherit a birthright advantage in a process that wraps itself up in the cloth of meritocracy.

## THE ORIGIN OF LEGACY PREFERENCES

**H**istorians typically identify the 1920s and 1930s as the period when the Ivy League began providing what they call “a tip” to the children of alumni. For much of their histories, these centuries-old colleges admitted most of their students from a select group of independent high schools and boarding schools. As a result, Ivy League undergraduates were almost exclusively white, well-off, Protestant, and male.

When the Ivies began admitting students from a slightly larger pool of applicants—using admissions exams as a way to identify qualified candidates—two things happened. First, there were many more applicants, which made admission significantly more selective. Second, the number of admitted students who were Jewish increased significantly. These two factors created the impetus for creating a holistic admissions process that looked at non-academic as well as academic factors. Some of those factors, including being the descendent of a graduate from the college, heavily favored the traditional Ivy League applicant. Because the selection process for admission could not be easily or precisely quantified, scholars have argued, it lent itself to excluding the many highly qualified Jewish applicants and drove down the number of Jews attending Columbia, Harvard, and Yale.

As the number of students applying to college grew after the Second World War and some colleges became more selective, they adopted holistic admissions processes. There is precious little history on the spread of legacy preferences because colleges have long kept this practice hidden from public view, but colleges likely adopted it at the same time they implemented holistic admissions. Roughly half of all four-year colleges that complete the Common Data Set survey provide a legacy preference.

## LEGACY PREFERENCES UNDER FIRE

**O**ver the past half-century, a number of policymakers and higher education leaders have questioned the ethics and decency of providing a birthright advantage to applicants likely to enjoy many advantages already.

In 1966, Yale’s dean of admissions, R. Inslee Clark, started cutting back on legacy admits. Alumni were not pleased. Conservative commentator and Yale alumnus [William F. Buckley](#) complained that “the son of an alumnus, who goes to a private preparatory school, now has less chance of getting in than some boy from P.S. 109 somewhere.”<sup>3</sup> By 1970, Clark was gone.

In 1988, the Department of Education’s Office for Civil Rights (OCR) opened a case on Harvard’s admissions process after receiving several reports of bias against Asian-American applicants. Two years later, the [OCR’s report](#) found no culpability on Harvard’s part, because, it argued, the reason Asian Americans were admitted at lower rates was due to the effect of athletic recruitment and legacy preferences, not bias.<sup>4</sup> The report also showed that on almost every metric, including alumni interview ratings, non-legacy admits were ranked higher than legacy admits. The mediocrity of many of the legacy admits and the power of a legacy “tip” were recorded in application file comments:

- *“We’ll need confirmation that dad is a legit, S&S [Alumni Schools and Scholarship Committee participant] because this is a ‘luxury’ case otherwise.”*
- *“Without lineage, there would be little case. With it, we will keep looking.”*
- *“Not a great profile but just strong enough #'s and grades to get the tip from lineage.”*

Decades later, the children of many of these below-average legacy admits would inherit the same advantage their parents did.

Reacting to the OCR report, Senator Bob Dole wrote a letter to the Department of Education asking the Secretary to determine the legality of legacy preferences. “The last thing we need in American education,” he wrote, “is a caste system.”<sup>5</sup> Nothing came of the letter.

In 2003, Senator John Edwards included a ban on legacy preferences in his presidential campaign platform; he referred to the practice as “a birthright out of 18th-century British aristocracy, not 21st-century American democracy.”<sup>6</sup> That same year, Senator Ted Kennedy introduced a bill that would require universities to publish data on the racial and socioeconomic composition of legacies. It did not succeed.

Former Secretary of Defense and Texas A&M University president, Robert Gates, did succeed, however, in eliminating the use of legacy preference at his institution in 2004 after Texas voters banned the consideration of race in admissions at public universities. The University of California system also eliminated preferences for the children of alumni after voters passed Proposition 209 in 1996, which barred public universities from considering race in their admissions process. The University of Georgia did the same after a court ruled its racial preferences unconstitutional in 2001.

A new light was shined on legacy preferences by the lawsuit filed by Students for Fair Admissions against Harvard and by the Varsity Blue college admissions scandal. SFFA is an organization created by Ed Blum, who has made the elimination of all race-conscious policies through lawsuits his life's work. He and his lawyers cannily paired their assault on racial preferences at Harvard with an attack on preferences given to donors and legacies. Leaving aside the calculated nature of this strategy and the disingenuousness of comparing a legacy preference with the recognition that race continues to determine access to opportunity in America, the case usefully [exposed the impact legacy preferences have](#) in highly selective admissions.<sup>7</sup>

Four months after the initial Harvard trial ended, the FBI announced the indictment of more than fifty people on charges of bribing university officials and cheating on admissions exams in order to get unqualified students into elite universities. As with the Harvard case, the Varsity Blues scandal exposed highly selective colleges' dirty laundry and left many Americans wondering just how deep the rot goes in the so-called meritocracy of college admissions.

In 2019, Assemblymember Phil Ting (D-San Francisco) introduced a bill in California that would effectively ban private colleges in the state from using legacy preferences. After a strong pushback from the higher ed lobby, the Assembly passed a reporting requirement. All private colleges had to report the number of legacies and children of donors who apply, are admitted, and enroll each year. The [law has some weaknesses](#), particularly in the flexibility it provides colleges to determine themselves whether they offer a legacy preference, which allowed Pitzer College to opt out of reporting its legacy data after 2019, even though it indicates on [its website](#) that it continued to consider an applicant's relation to alumni/ae in its admission process in 2020 and 2021.<sup>8</sup> This laxity in the reporting requirement explains why just a handful of private colleges in California report legacy data, even though more indicate that they consider "relation to alumni/ae" in their admissions process.

The outcomes of California's reporting law are mixed. The percentage of admitted students who were legacies declined from the first year to 2021 at all but one of the reporting institutions (see Figure 2). Legacy enrollment shares grew at two institutions, although the extraordinarily high number at Stanford was inflated due to the deferrals of legacy students admitted for fall 2020, when many colleges around the nation switched to online learning due to COVID (see Figure 3).

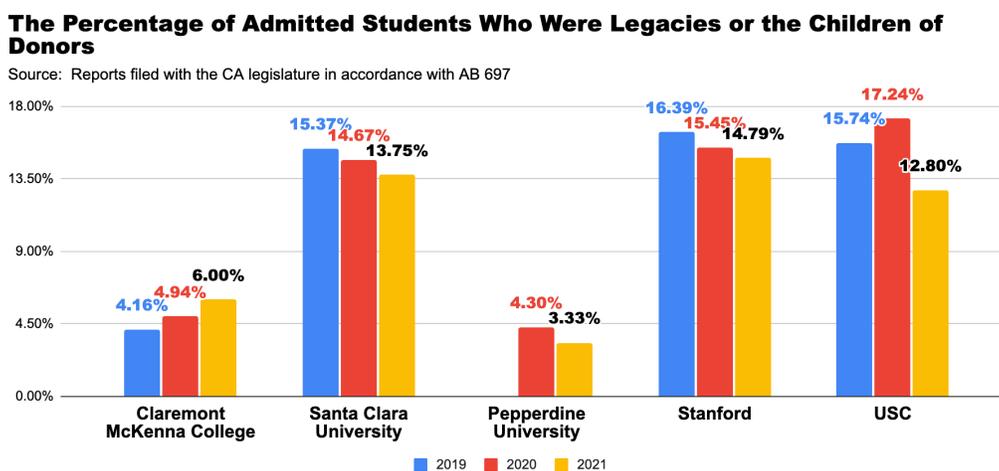


Figure 2

### The Percentage of Enrolled First-Year Students Who Were Legacies or the Children of Donors

Source: Reports filed with the CA legislature in accordance with AB 697

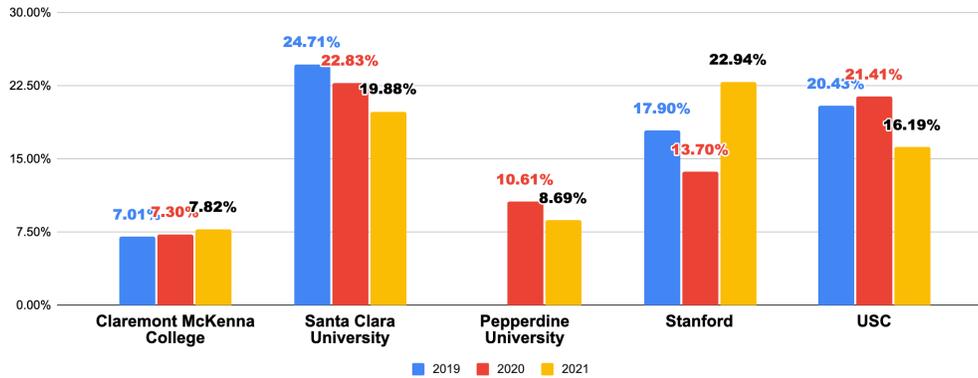


Figure 3

*"[Providing a legacy preference] was impairing our ability to educate qualified and promising students from all backgrounds and to help launch them up the social ladder."*

— President Ronald Daniels, Johns Hopkins University

As legacy preferences attracted more criticism, some highly selective universities and colleges publicly ended the practice. In 2020, the president of Johns Hopkins University, Ronald J. Daniels, wrote [a piece for \*The Atlantic\*](#) explaining why Hopkins stopped its use of legacy preference. Providing some applicants “a routine admissions advantage based solely on their parentage had come at a high cost,” Daniels explained. “It was impairing our ability to educate qualified and promising students from all backgrounds and to help launch them up the social ladder.”<sup>9</sup> In 2021, Amherst College followed suit, with a similar justification. [Biddy Martin](#), president of Amherst College, said, “Now is the time to end this historic program that inadvertently limits educational opportunity by granting a preference to those whose parents are graduates of the College.”<sup>10</sup>

Although Amherst and Hopkins attracted a lot of media attention for dropping legacy preference, they are not the only colleges or universities to do so recently (see Table 1).

**Cynics sometimes say that legacy is too entrenched to ever go away, but 102 colleges and universities that once indicated they considered an alumni/ae relation in the admissions process have stopped doing so since 2015.**

Selected Colleges and Universities that Have Stopped Providing a Legacy Preference since 2015	
Amherst College	Seton Hall University
Binghamton University	The University of Tennessee-Knoxville
California Institute of Technology	University of Colorado Boulder
College of the Ozarks	University of Connecticut
Colorado School of Mines	University of Florida
Earlham College	University of Kentucky
Florida State University	University of Massachusetts-Amherst
George Mason University	University of Kansas
Hampton University	University of Michigan-Dearborn
Johns Hopkins University	University of New Hampshire-Main Campus
Mercer University	University of South Carolina-Columbia
Pomona College	University of South Dakota
Purdue University-Main Campus	University of Southern Maine
Saint Louis University	University of Wisconsin-Madison

Table 1

In 2021, the Colorado legislature banned the use of legacy preferences in all public colleges, becoming the first state to do so. Education Reform Now pushed the introduction of this bill and several more in 2022. A [New York bill](#) goes even further than Colorado's by banning the use of legacy preferences at public and private universities, and the Connecticut General Assembly considered [a similar ban](#).<sup>11</sup> The most ambitious bill of all is a federal one, the [Fair College Admissions for Students Act](#), introduced by U.S. Senator Jeff Merkley (D-OR) and U.S. Representative Jamaal Bowman (D-NY-16). It would ban the use of legacy preferences nationwide at any institution that receives federal financial aid, which is almost every college in the country.<sup>12</sup>

These bills have been introduced in a nation that is increasingly hostile toward legacy preferences. In 2019, a Pew survey showed that [68 percent of Americans](#) believed that a relative attending a college should not be a factor in admissions; in 2022, [75 percent](#) did.<sup>13</sup> **Legacy preferences are even less popular with admissions directors than they are with the general public.** In 2018, [one in four](#) believed legacy preferences were “an appropriate factor in admission.”<sup>14</sup> In 2022, that percentage was cut in half. **Just one in eight admissions directors believed “institutions should grant some degree of preference to legacy applicants over non-legacy applicants.”**<sup>15</sup>

## WHO PROVIDES A LEGACY PREFERENCE

**I**n 2020, just about half the four-year colleges in the United States that completed the section of the Common Data Set on admissions considerations indicated that they consider a “relation to alumni/ae” in their admissions process. **The use of legacy preferences is more common among private colleges and is especially prevalent in the northeast United States** (see Figure 4). Wyoming, Nevada, and Alaska are the only states where no universities or colleges provide a legacy preference.

### The Share of All Colleges and Universities that Provide a Legacy Preference

Based on Question C7 in the Common Data Set, which asks whether an alumni relation is considered in the application process. CDS data for private institutions are for 2020 and for public institutions 2021.

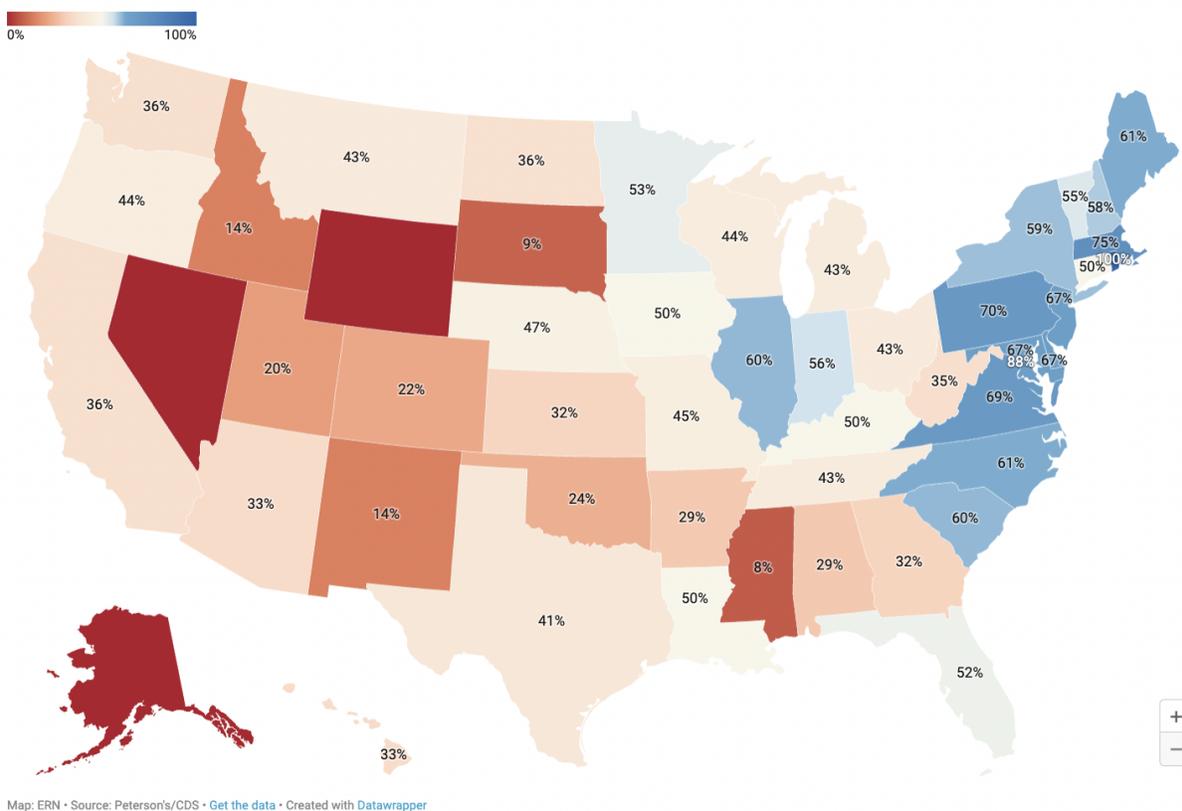
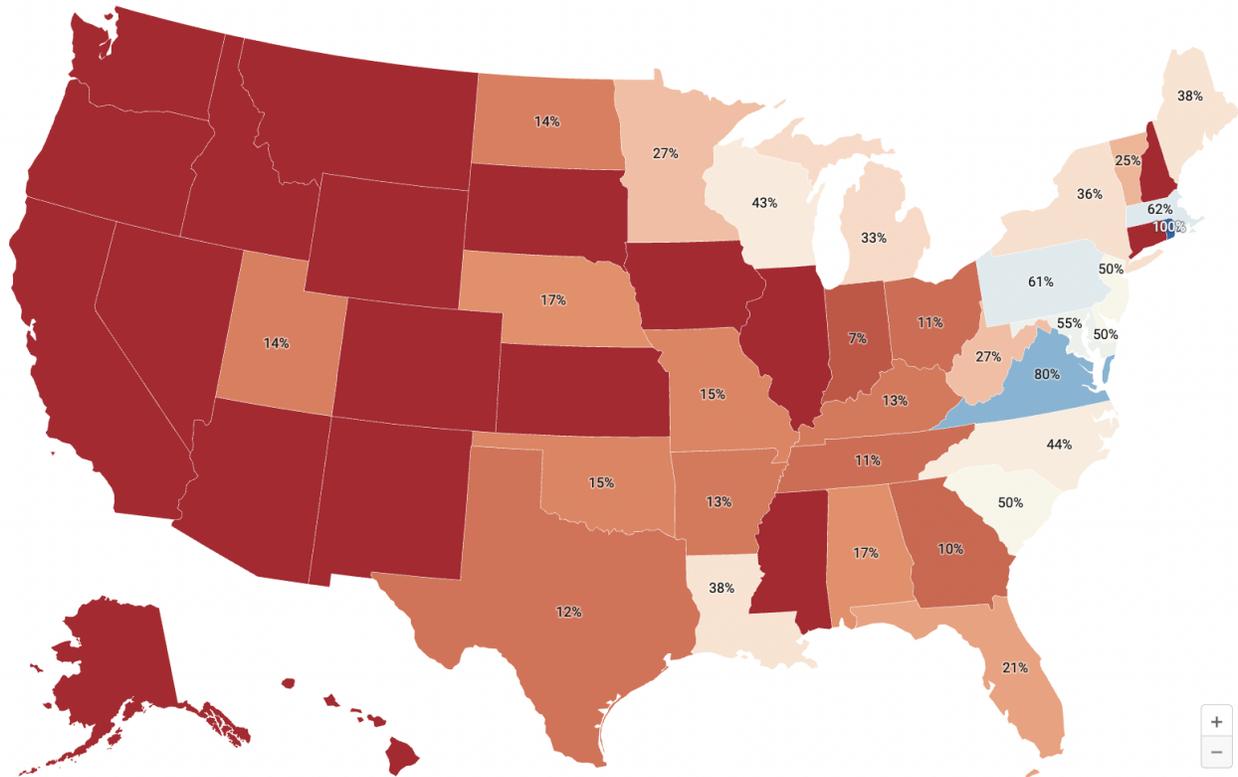


Figure 4

When we look at just public universities and colleges, however, the practice of offering a legacy preference is much less common (see Figure 5). **Just 24 percent of public four-year institutions provide an advantage to the relatives of alumni in the admission process**, and they are heavily concentrated on the East Coast. Nineteen states and almost the entirety of the West have no public universities or colleges that provide a legacy preference.

## What Share of Public Colleges and Universities in a State Provide a Legacy Preference to Applicants

Based on Question C7 in the Common Data Set, which asks whether an alumni relation is considered in the application process.



Map: ERN • Source: Peterson's/CDS • Created with Datawrapper

Figure 5

There are just five states where a majority of the public institutions of higher education offer an admission advantage to the children of alumni: Maryland, Pennsylvania, Massachusetts, Virginia, and Rhode Island. In 16 states, the flagship university provides a legacy preference, (see Table 2).

Every State Flagship University That Provides a Legacy Preference	
Auburn University	University of Minnesota-Twin Cities
The University of Alabama	University of North Carolina at Chapel Hill
University of Arkansas	University of Oklahoma-Norman Campus
University of Delaware	Pennsylvania State University-Main Campus
Indiana University-Bloomington	University of Rhode Island
Louisiana State University and Agricultural & Mechanical College	University of Utah
University of Maryland-College Park	University of Virginia-Main Campus
University of Michigan-Ann Arbor	University of Vermont

Table 2

The institutions where legacy preferences are most commonly provided and have the most impact are the 64 colleges and universities with admit rates below 25 percent (see Figure 6).

## The Percentage of Colleges and Universities that Provide a Legacy Preference, by Admit Rate

Source: CDS/Peterson's (Fall 2020)

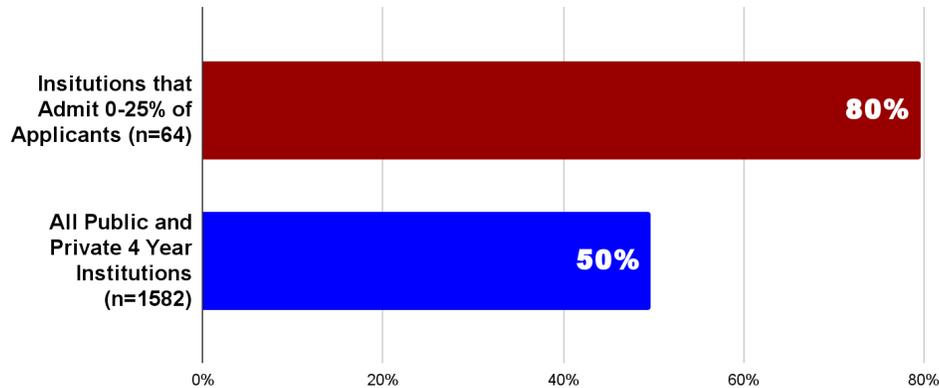


Figure 6

### WHY PROVIDE A LEGACY PREFERENCE

When university leaders attempt to defend legacy preferences, they often speak about creating a multigenerational community. The president of Duke University, Vincent Price, recently told faculty that he believes legacy preferences are a legitimate way to find “students [who] will thrive.” He went on, “We’re an institution that was made in a family—the Duke family. We bear the name of that family. We represent family, we talk about family, so how does that translate into the way we behave? The idea that you would ban legacy admissions, or ban any particular factor as a consideration, is troublesome.”<sup>16</sup>

To be clear, Duke University is not a family. It is a social and cultural institution that possesses a great deal of wealth and power. There’s a word for the conflation of institutions with family: it’s called aristocracy.

What makes Price’s claim about family even more troubling is that for most of its history, the Duke “family” was exclusively white, unless we count the people Duke’s president enslaved in the 1850s. Duke did not enroll its [first Black undergraduate until 1963](#).<sup>17</sup> Duke is typical of most highly selective colleges that offer legacy preferences: students of color have long been underrepresented, and it will take generations to catch up to the legacy advantage that white alumni have.

There is evidence that legacy preferences can actually harm a college’s sense of community because some legacy admits feel estranged from their peers. Knowing the benefits they have received from their parents, they feel like they do not deserve to be on campus as much as their peers do. When Amherst announced the end of legacy preferences, [Dean of Students Rick Lopez](#) was “very enthusiastic about the new policy,” he said, because he hoped “it allows legacy students to feel confident in their abilities, without any cloud of doubt hanging over their heads about their talent.”<sup>18</sup> Deborah Perlman, a psychologist at Georgetown University, [told a reporter](#) that she “often counsels legacies who wonder if they deserved to get in. There’s a self-doubt that creeps in.”<sup>19</sup> Impostor syndrome is a bad way to build a community.

The degree to which legacy admits measure up to their peers academically remains an open question, largely because there is so little data available on legacy enrollments and outcomes. Critics of legacy preferences often want to believe that legacies are less academically qualified than their peers. There is some evidence to support this claim. One study found that legacies earn worse grades in college than their peers do.<sup>20</sup> In the 1980s, [non-legacy admits were ranked higher than legacies](#) by admissions officers at Harvard in every category but athletics, and their average SAT score was 35 points higher.<sup>21</sup> A 2022 paper that examined sixteen years of admissions records at a highly selective northeastern college found that legacies were basically on par with their peers, however, which echoes what admissions officers have reported to me.<sup>22</sup>

That same paper concluded that the reason colleges provide an advantage to legacies is financial. Legacy applicants are more likely to enroll if admitted, less likely to need financial aid, and donate more after graduating. They also tend to

be white. **Legacy preferences, in sum, are good for a college's bottom line, do little for its academic strength, and are bad for racial and socioeconomic diversity.**

Or at least that was the case at one college. The financial impact of offering or eliminating a legacy preference is unclear. There are few studies on the subject, and most are more than a decade old. A [2010 study](#) of 100 highly-ranked colleges found “no statistically significant evidence that legacy preferences impact total alumni giving,” but the researchers lacked access to records on donations and had to rely on aggregate, public data.<sup>23</sup> A [2009 study](#), on the other hand, found that alumni with children gave more and that giving increased as their children got closer to applying to college. Giving dropped off after the admissions decision was released and dropped even more if the child was rejected.<sup>24</sup>

In conversation, admissions officers have expressed skepticism about the claim that a legacy advantage does not help alumni giving or that getting rid of it would not hurt donations. The main reason legacies get a tip in the process is to avoid disappointing alumni, a point memorably made by the [president of the Stanford Alumni Association](#). The admissions process, Howard Wolf said, is “the point at which the University is most vulnerable in its relationship with its alumni.”<sup>25</sup> Legacy preferences protect that financial—not familial—relationship.

## THE IMPACT OF LEGACY PREFERENCES

**M**easuring the impact of legacy preferences is not just a question of how much they affect an applicant's chances of being admitted. It's a question, too, of determining the harm done by legacy preferences to other qualified applicants and to the general perception of how well higher education serves democracy.

There is little doubt that the children of alumni applying to a college with a legacy preference have substantially higher chances of being admitted. A 1997 study estimated that the tip from applying as a legacy was equivalent to earning an additional 160 points on the SAT.<sup>26</sup> A 2007 study of 30 highly selective colleges found that legacy applicants were three times as likely to be admitted as equally qualified non-legacy applicants.<sup>27</sup> The SFFA lawsuit revealed that the odds were even better at Harvard. **Legacy applicants at Harvard were roughly six times more likely to be admitted than non-legacy and non-athlete applicants were.**<sup>28</sup>

The advantage legacy status provides is revealed even more if we look just at Harvard's most academically qualified applicants. Admissions officers at Harvard rank all their applicants on academics from 1 to 5. [Four-fifths of admitted students](#) earn a 1 or a 2, but that ranking does not guarantee admission.

An academic ranking of 1—which [an admissions handbook](#) describes as “a potential major academic contributor; ... [g]enuine scholar, near-perfect scores and grades”—is very rare.<sup>29</sup> Only about 100 applicants each year earn it, and yet even among these academic superstars, 33 percent were rejected (see Figure 7). That percentage changes dramatically if they were a legacy. From 2010 to 2015, three percent of the legacies who earned an academic 1 were rejected. That amounted to two people.

### How Academic Superstars Fared in Harvard's Application Process (2010-2015)

The chart shows the number of applicants and admits to Harvard, by category, who were given the highest academic rating (1) by admissions officers. All data come from Exhibit 618 of the SFFA v. Harvard case.

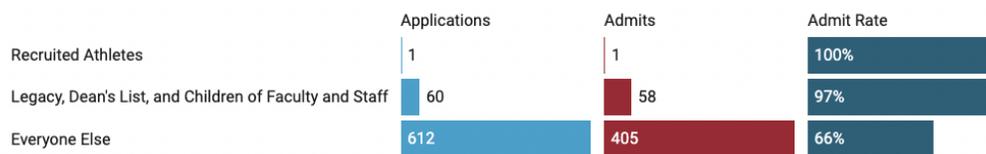


Chart: ERN • Source: Tyler Ransom • Created with Datawrapper

Figure 7

During the initial SFFA v. Harvard trial, [Harvard's dean of admissions testified](#) that only 15 percent of the students who were rated an academic 1 or 2 were admitted in a typical year.<sup>30</sup> If, however, they came from a household earning less than \$60,000 per year, their admit rate increased to 24%. Clearly, Harvard believes that a student who is not born with the opportunities that come with wealth deserves some preference in the admissions process.

But Harvard also believes that students whose parents went to Harvard also deserve some preference, indeed more preference, since the admit rate for legacies rated an academic 1 or 2 was 55% (see Figure 8).

## How Much Advantage Do "Tips" Provide in the Harvard Admissions Process for the Most Academically Well-Prepared Students?

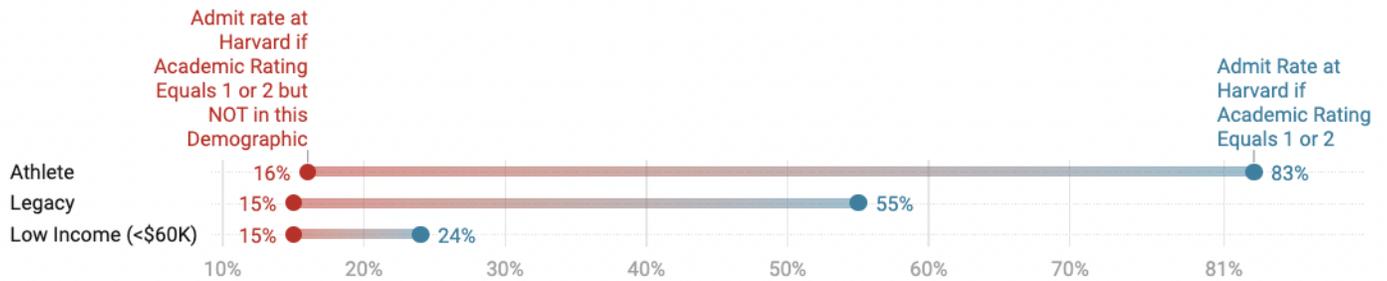


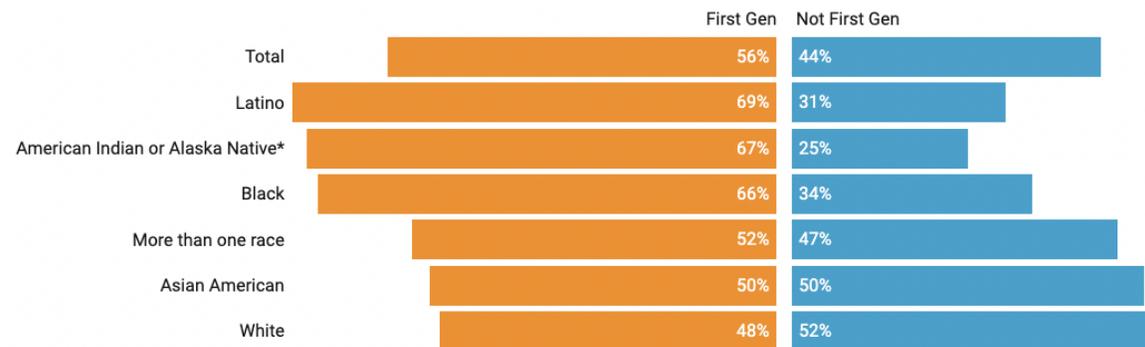
Chart: ERN • Source: Tyler Ransom • Created with Datawrapper

Figure 8

Considering equally gifted students, Harvard denied three-fourths of those who came from working-class families, but it admitted a majority of the legacies. Students with all the advantages of being raised by Harvard graduates were given spots that could have gone to equally deserving poor kids.

While Harvard is far from a typical university, the documents exposed by the SFFA lawsuit demonstrate the damage legacy does to fairness and diversity at highly selective institutions. Legacy is one more way the deck is stacked against even the most talented students of color and first-generation students applying to elite universities, since most legacies are white, and all of them have parents with at least a bachelor's degree. More than two-thirds of Latino, Native, and Black college students, however, were first-generation students in 2015 (see Figure 9). Many top-ranked universities enroll more legacies than Black students in the freshman class (see Figure 10).

## The Percentage of Students that are First Generation, by Race/Ethnicity (2015/16)

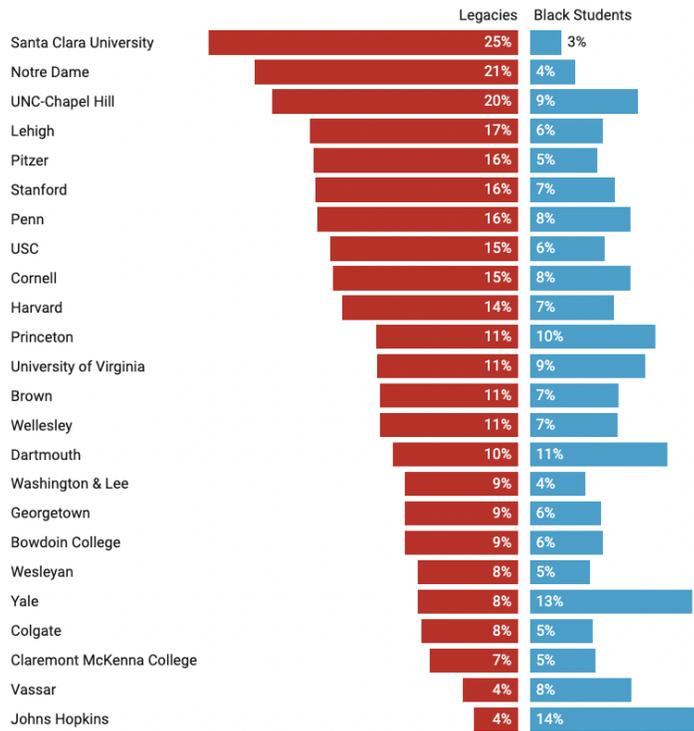


\* Total does not add up to 100 percent due to issues with sample size.

Chart: ERN • Source: National Postsecondary Student Aid Study: 2016 • Created with Datawrapper

Figure 9

## Freshman Class Percentages



*Because these data come from a wide range of sources, sources will be supplied upon request. For most institutions, the percentages reflect the freshman class of 2020-21.*

Chart: ERN · Created with [Datawrapper](#)

**Figure 10**

These enrollment gaps will likely grow much worse if admissions offices do not change their practices and policies. On October 31, 2022, the Supreme Court will hear the cases brought against Harvard and UNC-Chapel Hill. It is expected that the Court’s decision will ban the use of race-conscious policies in college admissions. If colleges and universities, particularly highly selective ones, wish to maintain or expand their current levels of campus diversity, they will need to eliminate all practices that provide an unfair advantage to wealthy white applicants. Legacy preference will have to be eliminated across the nation, as it was in California, Georgia, and most of Texas after they banned the consideration of race in admissions. Similarly, if higher education is to slow the public erosion of trust in the fairness and value of college, colleges and universities cannot remain committed to a practice that is patently unfair. The Supreme Court’s decision in these cases will show us just how much elite universities and colleges truly stand behind their commitment to diversity and social mobility. We need not rely on colleges volunteering to eliminate this unfair barrier to opportunity, however. There are several steps policymakers can take to eliminate legacy preferences. We recommend four below.

## RECOMMENDATIONS

### **1. Increase transparency by requiring disaggregated data reporting on legacy preference to the U.S. Department of Education.**

One of the most important sources of information about higher education in the United States is the Department of Education’s annual survey of colleges and universities, which is collected and published by the Integrated Postsecondary Education Data System (IPEDS). IPEDS is an essential tool for policymakers, researchers, and higher education advocates, who rely on its data to stay informed about a range of issues, including enrollment, completion, financial aid, revenue, expenditures, and more. Currently, IPEDS publishes a bare minimum of data around the admissions process: the number of applications, the number of admissions, and the number of enrollments, as well as the SAT and ACT scores of enrolled students. None of this data is disaggregated by race, ethnicity, or socioeconomic status. **If the Supreme Court strikes down the use of race-conscious admissions policies in its current term, as is expected, disaggregated data will be essential for tracking the effects of that ruling in the years to come.**

The Department of Education collects no data on how legacy preferences are implemented in admissions. What little data there is on legacy largely comes through the SFFA lawsuit and research. The few research papers published on legacy preferences typically do not identify the colleges and universities in their data sets, which makes it impossible to hold them accountable.

The Department of Education should include survey questions about legacy preferences and publish the results in IPEDS. These questions should include:

- A. Whether an institution of higher education offers a legacy preference.
  - a. That determination should be based on the answer to two questions:
    - i. Does the institution's application form ask where an applicant's parent(s) attended college?
    - ii. Do application files that admissions officers read contain the name(s) of the colleges that an applicant's parent(s) attended?
  - b. An affirmative answer to either question would identify an institution as one that provides a legacy preference. It is important to note that colleges and universities would still be permitted to ask *whether* an applicant's parent(s) earned a bachelor's degree or higher, as it is important to identify students who are the first in their family to attend college.
- B. The number of applications from legacies received.
- C. The number of legacy applicants admitted.
- D. The number of legacy admits enrolled.
- E. Data for B, C, and D should be disaggregated by race/ethnicity and gender.
- F. Data for D should be disaggregated by Pell status.

## ***2. Make revenue from federal financial aid conditional on the elimination of legacy preference.***

The U.S. Department of Education has a powerful tool to encourage colleges and universities to do what's right for students. Almost every institution of higher education in the nation receives substantial revenue from federal financial aid. The [Fair College Admissions for Students Act](#) would "prohibit institutions of higher education participating in Federal student aid programs from giving admissions preference to students with legacy or donor status."<sup>31</sup> The definition of "giving admissions preference" in this bill should be the same as in Recommendation 1: if a college asks where an applicant's parents went to college or includes that information in an applicant's admissions file, it should be considered as providing a legacy preference.

## ***3. Make revenue from state student aid conditional on the elimination of legacy preference.***

While the revenue from state student aid is typically not as large as from federal financial aid, it is significant in many states and could be used to carry out a policy similar to that proposed in Recommendation 2. The Colorado legislature passed a law that essentially did this for public colleges and universities in 2021. Such a state law need not be restricted to public institutions (see the "Fair College Admissions Act" in New York), although it could be easier to build consensus for a ban on legacy preferences limited to public institutions. As discussed in the "Who Provides a Legacy Preference" section, most public colleges and universities do not provide an advantage to the children of alumni.

## ***4. Impose an additional tax on the institutions subject to the endowment tax if they provide a legacy preference and lower the tax for those that do not.***

The 2017 Tax Cuts and Jobs Act (TCJA) introduced a 1.4 percent tax on university endowment income for universities with at least 500 students and endowment assets above \$500,000 per student. The IRS does not identify the schools that paid the tax, but data on university endowments shows that **39 of the 44 universities and colleges that met the threshold for the endowment tax in fiscal year 2021 provided a legacy preference.**<sup>32</sup> Congress could amend the endowment tax so that institutions that continued to provide an admissions advantage to legacies would pay a two percent tax, while those that do not would pay a one percent tax. This approach would be weaker and smaller in scope than the previous recommendations, but it would target institutions where legacy has the largest negative impact on access to opportunity and diversity.

## **CONCLUSION**

**L**egacy preferences embody higher education's broken compact with America. A decade from now, we will surely look back in wonder at how any university carried on this shameful practice for so long. Now is the moment for the leaders of universities and colleges to put that shame behind them.

## METHODOLOGY

This report used the Common Data Sets for academic years 2015-16 to 2020-21, which are published by Peterson's. I looked only at public and not-for-profit four-year institutions in the 50 states and the District of Columbia. Unless otherwise stated, the data used are from the class that began in fall 2020. In order to identify institutions that provide a legacy preference, I relied on question C7, which asks about the "Relative importance of each of the following academic and nonacademic factors in your first-time, first-year, degree-seeking (freshman) admission decisions." One of the nonacademic factors is "Alumni/ae relation." If a college indicated that a relation to alumni is "considered," "important," or "very important," I counted it as providing a legacy preference. If it indicated "not considered," I did not. Institutions that left the field blank were not included in the analysis or report. The vast majority of institutions that provide a legacy preference marked the "considered" box. Admittedly, that indication tells us very little about how heavily and consistently a relation is considered. And there are certainly colleges and universities that have marked "considered" in error. The University of Connecticut, for instance, had been indicating it considered an alumni relation for years, but it testified to a legislative committee that it had not in fact done so and had checked the box in error. The University of Connecticut confirmed with me that it will be amending its Common Data Set this year. I would be surprised if other institutions have not made the same mistake. I encourage them to check their Common Data Set responses and correct them if necessary. Due to the University of Connecticut's correction, I looked at the Common Data Set entries for all public universities and colleges that indicated a legacy preference in 2020 to confirm that their answers remained the same. This double-checking was possible due to the limited number of institutions and could not be replicated for private colleges and universities.

Flawed as the Common Data Set is, there are currently no other viable options for identifying whether a university or college provides a legacy preference. Ultimately, evaluating the scale and impact of legacy preferences requires much better data collection (see Recommendation 1, above).

## END NOTES

- <sup>1</sup> Zachary Bleemer, "Proposition 209 and Affirmative Action at the University of California," UC-CHP Policy Brief 2020.4 (August 2020).
- <sup>2</sup> Evan Mandery, "University of Hypocrisy: Why liberal college professors can't admit their own complicity," *The Atlantic* (October 2, 2022).
- <sup>3</sup> Jerome Karabel, "The Legacy of Legacies," *New York Times* (September 13, 2004), A24.
- <sup>4</sup> U.S. Department of Education's Office for Civil Rights, *Statement of Findings, Compliance Review 01-88-6009* (1990).
- <sup>5</sup> Barry Massey, "Dole questions preferences in college admissions," Associated Press (December 20, 1990).
- <sup>6</sup> Associated Press, "Edwards outlines education plan," (January 4, 2003).
- <sup>7</sup> Josh Gerstein, "What is Harvard Trying to Hide?" *Politico* (October 21, 2018).
- <sup>8</sup> James Murphy, "California said it would make college admissions more fair after the Varsity Blues scandal. It didn't," *San Francisco Chronicle* (Oct 7, 2021). Pitzer reports that it considers an applicant's relation to alumni/ae in its Common Data Set filings for 2019, 2020, and 2021.
- <sup>9</sup> Ronald J. Daniels, "Why We Ended Legacy Admissions at Johns Hopkins," *The Atlantic* (January 18, 2020).
- <sup>10</sup> "Amherst College to End Legacy Preference and Expand Financial Aid Investment to \$71 Million," Press Release, Amherst College (October 20, 2021).
- <sup>11</sup> Senate Bill S8498, aka the "Fair College Admissions Act," was introduced in the New York Senate by Andrew Gounardes and referred to the Higher Education Committee on March 7, 2022. Bill No. 5034 was referred to the Committee on Higher Education and Employment Advancement in the February 2022 session of the Connecticut General Assembly.
- <sup>12</sup> S.3559 - Fair College Admissions for Students Act was introduced to the U.S. Senate on February 2, 2022.
- <sup>13</sup> Nikki Graf, "Most Americans say colleges should not consider race or ethnicity in admissions," (February 25, 2019); Vianney Gómez, "U.S. public continues to view grades, test scores as top factors in college admissions," Pew Research Center (April 26, 2022).
- <sup>14</sup> Scott Jaschik, "The 2018 Surveys of Admissions Leaders: The Pressure Grows," *Inside Higher Ed* (September 24, 2018).
- <sup>15</sup> Scott Jaschik, "Admissions Survey in a World of Change," *Inside Higher Ed* (September 19, 2022).
- <sup>16</sup> Adway S. Wadekar, "President Price discusses Duke's centennial, legacy admissions, DKU in annual address to Academic Council," *The Chronicle* (March 18, 2022).
- <sup>17</sup> Valerie Gillispie, "Let's Embrace Duke's Entire History," *Duke Magazine* (Fall 2020).
- <sup>18</sup> Caelen McQuilkin, "College Ends Legacy Admissions, Expands Financial Aid; Community Reacts," *Amherst Student* (October 27, 2021).
- <sup>19</sup> Daniel Golden, "Admissions Preferences Given To Alumni Children Draws Fire," *Wall Street Journal* (January 15, 2003).
- <sup>20</sup> Douglas S. Massey and Margarita Mooney, "The Effects of America's Three Affirmative Action Programs on Academic Performance," *Social Problems* 54.1 (February 2007).
- <sup>21</sup> Office for Civil Rights, *Statement of Findings, Compliance Review 01-88-6009*, Department of Education (1988).
- <sup>22</sup> Emilio J. Castilla and Ethan J. Poskanzer, "Through the Front Door: Why Do Organizations (Still) Prefer Legacy Applicants?," *American Sociological Review* (2022).
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- <sup>26</sup> Thomas J. Espenshade and Chang Y. Chung, "The Opportunity Cost of Admission Preferences at Elite Universities," *Social Science Quarterly* 86.2 (June 2005).
- <sup>27</sup> Michael Hurwitz, "The Impact of Legacy Status on Undergraduate Admissions at Elite Colleges and Universities," *Economics of Education Review* 30 (2011).
- <sup>28</sup> Trial Exhibit P618, *Students for Fair Admissions v. Harvard University*.
- <sup>29</sup> Trial Exhibit P633, *Students for Fair Admissions v. Harvard University*.
- <sup>30</sup> Day 3 Trial Transcript, *SFFA v. Harvard*, p.133.
- <sup>31</sup> "Merkley, Bowman Introduce Bill to End Legacy Admission Preferences at Colleges and Universities," press release from Sen. Jeff Merkely (February 2, 2022).
- <sup>32</sup> National Association of College and University Business Officers, *NACUBO-TIAA Study of Endowments* (2021).





# EDUCATION REFORM NOW

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Education Reform Now (ERN) is a non-partisan, nonprofit think tank and advocacy organization that promotes increased resources and innovative reforms in K-16 public education, particularly for students of color and students from low-income families. We seek forward progress in public education—at the federal, state, and local level—developing and advocating for new, bold ideas and mutually reinforcing policies in elementary, secondary and post-secondary education.