**Statement by UC Berkeley**

**California Court of Appeal decision affecting enrollment for the 2022-23 academic year**

**Monday, Feb. 14, 2022**

A decision issued Thursday, Feb. 10, by the California Court of Appeal, requires UC Berkeley to adhere to a lower court order requiring the university to freeze student enrollment at 42,347, the same level as 2020-21.

Today, the university appealed the ruling to the Supreme Court of California.

**Court Decision Has Dramatic Impact on 2022-23 Prospective Students**

If left intact, the court’s unprecedented decision would have a devastating impact on prospective students, university admissions, campus operations, and UC Berkeley’s ability to serve California students by meeting the enrollment targets set by the State of California.

Due to the pandemic, 2020-21 was an anomalous year when enrollment dropped as a large number of new and continuing graduate and undergraduate students decided to temporarily suspend their enrollment. By tying its unprecedented action to the 2020-2021 academic year, the court has effectively forced future enrollment to match the dramatically lower enrollment rate experienced during the height of the pandemic. As a result, the campus is currently estimating that it would be forced by the court order to reduce the number of new undergraduate students enrolled for the 2022-23 academic year by about one third. That amounts to at least 3,050 fewer undergraduate students than what 2022-23 enrollment planning currently calls for.

This court mandated decrease in enrollment would be a tragic outcome for thousands of students who have worked incredibly hard to gain admission to Berkeley.

In a typical year the campus offers admission to approximately 21,000 freshmen and transfer students, and enrolls about 9,500 of them. Based on the usual “yield” rates at Berkeley – -the number of students who accept an offer of admission — a reduction of at least 5,100 in undergraduate admission offers would be needed in order to reduce by 3,050 students the overall enrollment level that had been planned for 2022-23.

The university has determined that with the majority of graduate student admissions notices having already been sent out, it is too late in the process to reduce graduate student enrollment for 2022-23.

**Impact of Decision Affects Campus Ability to Serve Students**

There would also be serious financial consequences, impacting operations across the University and affecting already enrolled students. The campus currently projects that the court-mandated reduction in enrollment would result in at least $57 million in lost tuition, which would impact our ability to deliver instruction, provide financial aid for low- and middle-income students, adequately fund critical student services, and maintain our facilities.

**Background on Enrollment Numbers**

Undergraduate enrollment in 2020-21 dropped dramatically and unexpectedly as students who had previously been enrolled but had not graduated, decided to take a semester or a year off. The same was true for graduate students, distributed over dozens of professional and doctorate programs.

Previously enrolled students who take time off are not counted in the enrollment census until they return and that, in turn, led to a significant drop in enrollment in 2020-21; and therein lies the problem given that 2020-21 is the benchmark year used by the court to freeze enrollment. Students who are not enrolled in any given semester have, in most cases, the ability to return and finish their studies. With the resumption of in-person instruction, fall 2021 enrollment increased by approximately 2,700 students, as compared to fall 2020 enrollment, and totalled 45,057.

Given that the university cannot easily reduce enrollment in small graduate programs, or prohibit current students from enrolling, entering undergraduates are the cohort that would need to be reduced to meet the court ruling.

The court’s decision could have immediate consequences given that some undergraduate offers of admission were sent out this month. The remaining offers of freshmen admission will be sent out on March 24, and offers to transfer students will be sent on April 2.

**Litigation Background and Timeline**

In a ruling issued by an Alameda County Superior Court judge in August 2021, the University of California, Berkeley, was ordered to freeze student enrollment at the 2020-21 level – an abnormally low enrollment year due to the COVID-19 pandemic. The order was part of a ruling that halted the campus’s plans to proceed with the [Upper Hearst Project](https://capitalstrategies.berkeley.edu/goldman-school-upper-hearst-project) that would provide new academic space as well as faculty, postdoctoral researcher and graduate student housing for UC Berkeley’s Goldman School of Public Policy (GSPP).

The lawsuit was filed by Save Berkeley’s Neighborhoods, a local community group, challenging under the California Environmental Quality Act (CEQA) the university’s environmental impact analysis that included an analysis of the impacts of increased student enrollment that had occured in previous years. The Upper Hearst Project itself would allow UC Berkeley to serve an additional 30 graduate students but does not otherwise increase student enrollment.

The university’s analysis concluded that despite having more students on campus than previously projected, UC Berkeley was operating well below the level of environmental impacts anticipated, due in large part to implementation of UC policies contributing to a “greener campus.”

There was therefore no need for the university to have considered reducing enrollment in order to minimize adverse impacts. The court rejected that finding and ordered the enrollment freeze until the analysis of enrollment growth could be completed.

Initially, the campus was optimistic that documents could quickly be filed with the court that would satisfy the judgment’s demands regarding analysis of future increases in enrollment.

**The Decision to Appeal**

The Regents of the University of California believe the trial court did not have jurisdiction to suspend enrollment at UC Berkeley in this case. The Regents filed their appeal of the trial court’s August 23, 2021 judgment on October 18, 2021.

The underlying case challenges the Upper Hearst Project which adds approximately 225 new residence hall beds to campus and does not increase enrollment beyond the addition of 30 graduate students. The CEQA environmental analysis for the Project included analysis of the growth in student enrollment at UC Berkeley that had occurred independently from the project and had not previously been analyzed. Because the Regents approval of the GSPP Project did not include any decisions to increase enrollment, the Regents contend that the court had no authority to set aside enrollment decisions or suspend enrollment at Berkeley.

**The Decision to Seek a Stay of the Enrollment Freeze**

Generally, in CEQA cases, a judgment is stayed at the moment a party files an appeal. As a result, the campus had every reason to believe that the injunction freezing enrollment at 2020 levels had been stayed when the appeal was filed in October.

However, after UC filed its appeal, UC was advised that the novel enrollment suspension portion of the judgment likely was not stayed by the filing of the appeal, and that, to avoid catastrophic consequences for UC Berkeley’s student enrollment for Fall 2022, UC should seek emergency relief from the court of appeal and ask for a stay of the enrollment injunction while the appeal is being decided.

Because UC Berkeley needs to issue acceptance letters in February/March 2022 for the Fall 2022 class, it was necessary to ask the Court of Appeal to stay the portion of the trial court’s judgment that suspends 2022-2023 enrollment at 2020-2021 levels. UC promptly did that on January 28. On February 10th, the appellate court denied that request. So the judgment that freezes enrollment at the low pandemic 2020 level is in effect, and UC is ordered to abide by it.

**The Basis of the Request for a Stay**

Complying with the Judgment's enrollment cap at UC Berkeley would have serious, immediate, and irreparable consequences. These include, but are not limited to:

* Negatively altering the course of thousands of high school students' lives who would otherwise be offered the chance to attend Berkeley in the fall of 2022.
* The risk that academic offerings at UC Berkeley will be limited due to low enrollment, and a commensurate decline in the quality of education UC Berkeley can offer.
* Severe economic impacts on the Berkeley campus.
* A reduction in financial assistance for low- and middle-income students.
* Impairment of UC's obligation to provide affordable, high-quality education to California residents.

These consequences are unwarranted and untenable. The University wants to ensure that thousands of matriculating high school seniors deserving of admission to UC Berkeley are not denied that admission as a result of an erroneous order that far-exceeds the trial court's jurisdiction.

The project opponents, by contrast, will not suffer any harm from a stay.

**Next Steps**

The appeal has yet to be heard and will be briefed during the spring and summer of 2022. A decision is expected before the end of the year. However, because the impact of the enrollment freeze on applicants for this year’s incoming class and immediate campus operations is so severe and unprecedented, UC is asking the California Supreme Court to stay this judgment while the appeal is being heard.