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**The Effects of Color-Blind Admissions:
The Case of California and Implications for the Nation**

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August 12, 1997**

On July 20, 1995, the Board of Regents of the University of California passed an historic resolution making UC the first major institution of higher education in the United States to eliminate affirmative action. By banning any consideration of race or ethnicity in college admissions, the Regents declared that even the moderate type of affirmative action upheld in the 1978 Bakke decision-- the use of race as a "plus factor" in considering qualified applicants-- would no longer be permissible. At the same time, the Regents mandated that the University "achieve a UC population that reflects this state's diversity."

In putting into place a policy that prohibits any consideration of race or ethnicity while at the same time decreeing that the student body reflect California's tremendous diversity, the Regents have placed the University in an exceedingly difficult position. Since the late 1960s, race-conscious affirmative action has been central to the University of California's efforts to fulfill its mission of serving all segments of California's population. With the passage of Regental Resolution SP-1, the University has been asked to devise alternative policies that will maintain diversity within a framework of strict "color-blindness." But as data presented in this paper from the first year of the post-affirmative action era at the University of California make clear, the consequence of the new policy is to reduce sharply the very diversity that the Regents have mandated.

To be sure, both supporters and opponents of affirmative action publicly proclaim their support for diversity. Can we not, ask well-intentioned people on both sides of the debate, attain many of the same goals pursued by race-conscious affirmative action by substituting preferences for the socially and economically disadvantaged in place of racial

and ethnic preferences?¹ After all, it is a fact of American life that the disadvantaged are disproportionately black and brown-- a point on which liberals and conservatives alike can agree. Would not, then, class-conscious policies realize the values of diversity and racial inclusiveness while avoiding the divisiveness and stigmatization of overtly race-based policies?

Many liberals, in particular, have rushed to the banner of class-conscious admissions policies-- in part out of a hope to salvage something if affirmative action is eliminated, but also out of a genuine sense that policies that emphasize race and ignore class are both unfair and politically indefensible. Even UC's conservative Board of Regents, 17 of 18 of whose political appointees are Republicans, included a clause in SP-1 giving special consideration to applicants who have "suffered disadvantage economically or in terms of their social environment."²

Yet class-conscious policies are doomed to failure if their purpose is to produce student bodies with anything near the levels of racial and ethnic diversity attained by the nation's leading undergraduate institutions and professional schools in recent decades. Class-conscious policies may be-- and, I believe, in many cases are-- justified on their own terms, but they are not a substitute for race-targeted policies. For the truth of the

¹ See, for example, Richard D. Kahlenberg, The Remedy: Class, Race, and Affirmative Action (New York: Basic Books, 1996). For criticisms of Kahlenberg's position of class-conscious, color-blind affirmative action, see Nathan Glazer, "Race, Not Class," in The Wall Street Journal, April 5, 1995; Abigail Thernstrom, "A Class Backwards Idea: Why Affirmative Action for the Needy Won't Work," The Washington Post, June 11, 1995; Paul E. Mirengoff, "Preference to the Poor: Why Class-Based Affirmative Action is a Bad Idea," in The Washington Post, December 19, 1996.

² Minutes of the Meeting of the Board of Regents of the University of California, San Francisco, July 20, 1995.

matter is that racial differences are not reducible to class differences, just as class differences are not reducible to racial ones. Indeed, as a brief review of California and national data will establish, both race and class are important independent sources of disadvantage in the contemporary United States. A failure to grasp this fundamental truth is bad social science, and it will lead to disastrous social policy.

I will proceed by focusing on three cases of admissions processes that are particularly crucial to equality of opportunity in higher education: undergraduate school, medical school, and law school. In each case, I will present data from California, where affirmative action was eliminated for UC's professional and graduate school on January 1, 1997 and is scheduled for elimination for all UC undergraduates who enter in the spring of 1998 and thereafter. Where possible, I supplement evidence from California with national data. The questions upon which I focus are the following: what will be the impact of the abolition of race-conscious policies on the composition of the student body? are class-conscious policies effective substitutes for race-conscious policies in attaining the goals of racial diversity and inclusiveness?

Based on a review of both California and national data, I reach two conclusions:

- 1) color-blind policies are likely to lead to a substantial resegregation of American higher education
- 2) class-conscious policies are likely to prove insufficient to prevent such resegregation.

In the paper's concluding section, I briefly discuss the politics of the contemporary battle over affirmative action. The ultimate outcome of the escalating national battle over

affirmative action, I shall argue, remains very uncertain. Paradoxically, the very success of foes of affirmative action in two key states-- California and Texas-- may end up strengthening the hand of those who favor race-conscious policies, for the actual consequences of the new regime of "colorblindness" are already becoming visible. Since these consequences include a major reversal of the limited, but nevertheless real, progress towards a more racially and ethnically inclusive system of higher education that has taken place over the past thirty years, the national debate over affirmative action, I suggest, may be poised to turn away from abstract principles such as "individual fairness" and "color blindness" and toward the concrete world of practical consequences and hard political choices. In this more grounded debate, the advocates of affirmative action may be able, if they make their case forcefully, to turn back the conservative assault on race-conscious policies.

THE IMPACT OF RACE-BLIND ADMISSIONS ON THE UNIVERSITY OF CALIFORNIA AND THE NATION

When the Board of Regents of the University of California, by a margin of 14-10-1, voted on July 20, 1995 to pass Resolution SP-1 prohibiting the use of "race, religion, sex, color, ethnicity, or national origin" in the admissions process as of January 1, 1997, UC became the first institution in American higher education to eliminate affirmative action. Though a federal court decision initially enjoined California's Proposition 209, this same decision made clear that it in no way challenges the Board of Regents' right to implement SP-1, which it undertook under its own authority almost 16 months prior to

the passage of Proposition 209.³ As noted above, SP-1 is already in effect for UC's graduate and professional schools, and provided the framework within which the classes enrolling in the fall of 1997 was admitted; at the undergraduate level, all students matriculating in spring 1998 and beyond will be admitted under the new policy.

The experiment upon which the University of California is embarking thus provides a kind of laboratory for those policy-makers and educators interested in the consequences of a policy of race-blind admissions. Already in the two years since the passage of SP-1, evidence has become available suggesting that the new policy is likely to change not only who is admitted, but perhaps also who applies and who chooses to attend. The effect of SP-1 may thus be a cumulative one, with the new policy having the potential to reduce both the number of minority applicants and the "yield rate" (the percentage of admittees who actually matriculate), in addition to the admission rate.

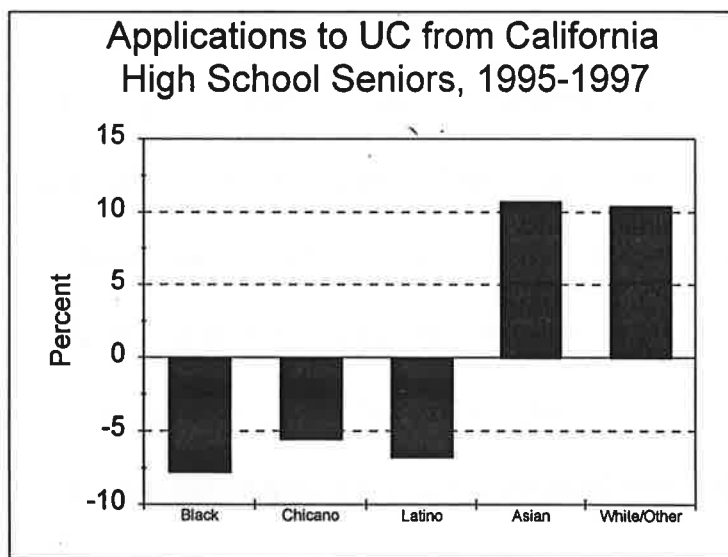
This paper examines the early effects of SP-1 by focusing on the case of admissions to undergraduate institutions and to the two most prestigious professional schools, law and medicine. In each case, we will present evidence on the pool of applicants upon which these institutions draw. Where possible, we will also present relevant national data offering provisional projections on what a policy of strict color blindness might mean for the nation as a whole.

³ Coalition for Economic Equity, et al., v. Pete Wilson, et al., in the United States District Court for the Northern District of California, Findings of Fact, Conclusions of Law and Order Re Preliminary Injunction, No. C 96-4024 Thelton E. Henderson, p. 35. On April 8, 1997, this decision was reversed by a three-judge panel of the 9th U.S. Circuit Court of Appeals. The ultimate fate of Proposition 209, which prohibits any consideration of race or gender in public education, employment, and contracting, is likely to be decided by the Supreme Court. See Larry Hatfield, "U.S. Appeals Court Upholds Prop. 209," in The San Francisco Examiner, April 8, 1997 and Tim Golden, "Federal Appeals Courts Upholds California's Ban on Preferences," New York Times, April 9, 1997.

Undergraduate Institutions

Though SP-1 was not in effect for the undergraduate cohorts entering UC in 1996 and 1997, available evidence suggests that SP-1 nevertheless affected the applicant pool (See Table 1), with increases among whites (10.4 percent) and Asians (10.8 percent), coupled with declines among blacks (-7.7 percent) and Latinos (-5.8 percent). This pattern of change in the racial composition of the applicant pool may well accelerate in 1998, when SP-1 goes into effect for undergraduates.⁴

Table One



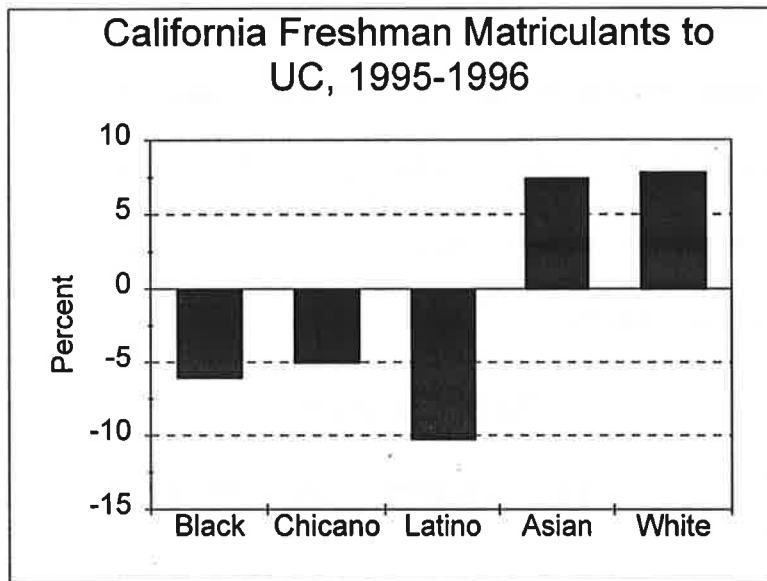
Source: UC Office of the President

Though data are only available for one year (1995 to 1996) on the racial and

⁴ In the tables presented in this paper, "Chicano" and "Mexican-American" will be used interchangeably. "Hispanic" will be defined as Mexican-Americans, Puerto Ricans, and others of Hispanic descent. When figures from the University of California refer to "Latinos," the population includes all Hispanics who are not Chicano. Where available data permit, we will provide separate statistics for Chicanos. Of California's population of 30,895,000 in 1992 (*American Almanac*, p. 34), 8,353,000 (27 percent) were of Hispanic origin. Mexican-Americans comprise 80 percent of California's Hispanic population; see Census Bureau Releases, 1990 Census Counts on Hispanic Population Groups, CB 91-216, June 12, 1991.

ethnic composition of UC's freshman matriculants, the pattern of effects seems broadly similar to that on applicants: blacks, Chicanos, and Latinos down, with whites and Asian-Americans up (see Table 2). The fall of 1997 may see a continuation of these trends among matriculants, but the relevant data are not yet available.

Table Two



Source: UC Office of the President

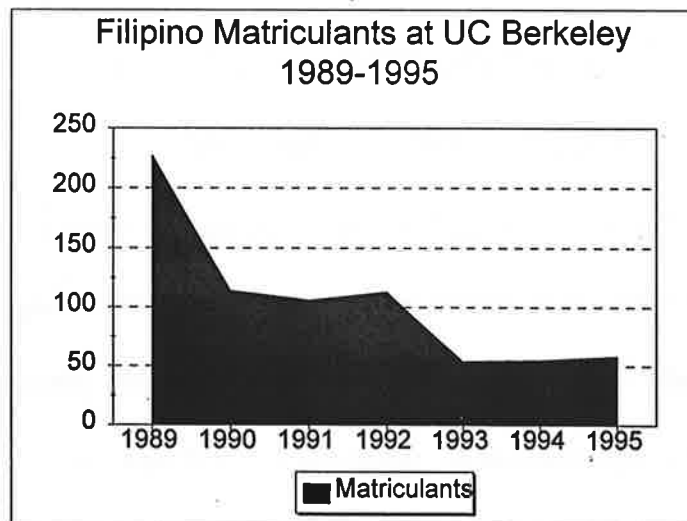
What are likely to be the consequences for freshman on enrollments at UC when SP-1 is implemented? Projections carried out by Berkeley and UCLA suggest that the proportion of historically underrepresented minorities on these two campuses is likely to drop substantially with implementation-- perhaps by one half or more.⁵ Other UC campuses, which are in less demand, may well see a less precipitous drop, and it is possible that a few may witness an increase in minority enrollments, as applicants

⁵ "UC Berkeley's Estimate of the Effects of Regents' Policy SP-1 and Proposition 209," Office of the Chancellor, UC Berkeley, September 6, 1996; "UCLA's Data Simulating the Potential Impacts of SP-1 and Proposition 209," Office of the Chancellor, UCLA, September 16, 1996.

rejected by Berkeley and UCLA choose to attend other UC institutions.

In attempting to predict the effects of UC's policy of color blindness on freshman admissions, there is one other intriguing bit of evidence that may be relevant: the case of Filipinos at UC Berkeley. Through 1989, UC eligible Filipinos received strong preference as part of Berkeley's affirmative action policy; in that year, 227 of them matriculated. The following year, Filipinos continued to receive special consideration under affirmative action, but at a substantially reduced level; their numbers dropped to 114, and they remained roughly at this level for the next two years. Then in 1993, affirmative action for Filipinos was eliminated; their numbers plummeted to 54, where they have remained (see Table 3).

Table Three



Source: UC Berkeley Office of Admissions and Enrollment

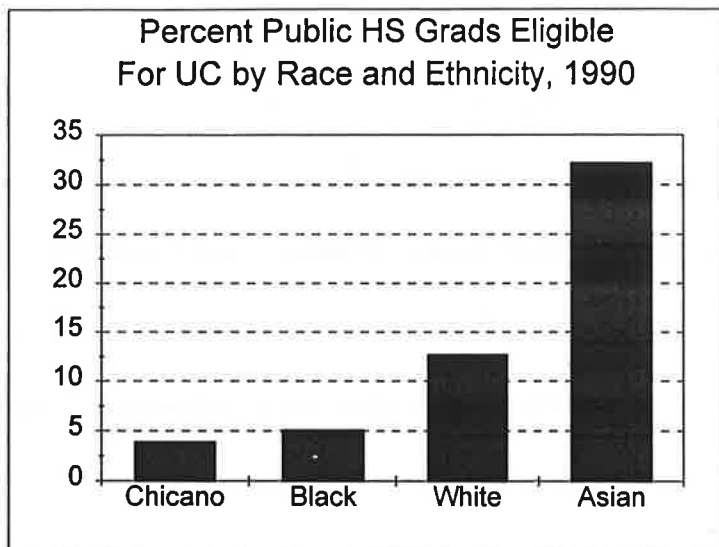
The elimination of affirmative action for Filipinos at UC Berkeley thus resulted in their numbers dropping to roughly 25 percent of their previous level. Filipinos, it should be noted, were much better situated to withstand the withdrawal of special consideration

than blacks and Chicanos, whose grades and test scores are considerably lower overall. Though one should be cautious about generalizing from a single case at a single institution, the data on Filipinos suggest that the elimination of affirmative action at the undergraduate level can have a major impact indeed, especially if countervailing measures to preserve diversity are not introduced.

To understand why the elimination of affirmative action is likely to have major consequences for UC's composition, it is necessary to examine available data on the magnitude of racial and ethnic difference in academic performance. These differences are large, especially at the upper end of the achievement distribution. A 1990 study of public high school graduates in California, for example, revealed that eligibility to attend the University of California⁶-- limited by the 1960 Master Plan to roughly the top 12 1/2 percent of high-school graduates-- varied sharply by race and ethnicity, with whites and especially Asian-Americans meeting the requirements far more frequently than blacks and Chicanos⁷ (see Table 4). Of California's rapidly growing population of Mexican-Americans, fewer than 1 in 25 high school graduates are eligible to attend UC, compared to approximately 1 in 8 whites and 1 in 3 Asian-Americans.

⁶ In order to meet requirements for eligibility to UC, students must complete a set of 15 units of high school courses known as the "a-f" requirements (2 years history/social science, 4 years English, 3 years mathematics, 2 years laboratory science, 2 years foreign language, and 2 years college preparatory electives). Only the grades earned in "a-f" subjects in the 10th, 11th, and 12th grades are used to calculate a student's GPA. In addition, if a student's GPA in these courses is below 3.3 but above 2.81, he or she may become eligible by achieving the necessary combined SAT scores on a sliding scale. For example, a student with a 3.10 GPA would need an SAT score between 940 and 1070 to become UC eligible. For specific requirements and the SAT-GPA formula, see University of California, Berkeley, General Catalog, 1995-1997, pp. 33-35.

Table Four



Source: California Postsecondary Education Commission, "Eligibility of California's 1990 High School Graduates for Admission to the State's Public Universities," (June, 1992), p 31.

At every stage of the process of educational selection, the proportion of Latinos and blacks who survive grows smaller and smaller. Whereas Hispanics and blacks constitute almost half of California's eighth graders and well over one-third of the state's public high school graduates, they comprise barely one-eighth of the students eligible to attend UC.⁸ Of the students who receive the highest scores on the math and verbal sections of the SAT-- crucial to admission to the most sought-after UC campuses such as Berkeley and UCLA-- the numbers are even lower, with fewer than 1 in 10 of those scoring over 600 coming from the Hispanic and black population (see Table 5). And of

⁸ See James J. Fay, *California Almanac*, (Pacific Data Resources; 1993) p. 36; California Post-Secondary Commission, "Student Profiles, 1996," October 1996 (Commission Report 96-8); California Post-Secondary Commission, "Eligibility of California's 1990 High School Graduates for Admission to the State's Public Universities," June 1992 (Commission Report 92-14), pp. 31-32.

those with scores over 700-- roughly the top 2 or 3 percent of California's high school graduates-- the combined Hispanic-black proportion on the verbal and math SAT's is 6 and 4 percent, respectively.

Table Five

High SATs Among California High School Seniors by Race, 1996

	Total	Black	Hispanic	Combined	Combined %
>700 Verbal	5442	64	263	327	6.01
>700 Math	8130	57	265	322	3.96
>600 Verbal	25685	548	1908	2456	9.56
>600 Math	31786	423	2062	2485	7.82

Source: College Entrance Examination Board

Would taking social class into account in allocating admission to UC, as is mandated by the Regents' policy, serve to maintain anything close to existing levels of racial and ethnic diversity? Data on all California seniors who take the SAT provided by the College Entrance Examination Board suggest that a class-conscious policy would have only a limited effect. The reason is that racial and ethnic differences remain large, even controlling for income (see Table 6). Indeed, a careful look at the SAT data reveal that racial differences are in fact larger precisely among the low income students who would be the primary targets of a policy emphasizing class. Hispanics from families with incomes below \$20,000, for example, average 188 points lower than whites, compared to a 91-point differential for those from families with incomes over \$60,000. These data

suggest that the main beneficiaries of a color-blind policy emphasizing class disadvantage would be low-income whites and Asians.⁹ Class-based affirmative action is a worthy policy in its own right, but it will do relatively little to maintain racial and ethnic diversity.

Table Six

Average California SAT Scores by Race and Parental Income, 1996

	<20	20-40	40-60	>60
Black	666	737	778	810
Hispanic	711	781	853	904
White	899	933	949	995
Asian	818	925	972	1050

Source: College Entrance Examination Board

The data from California reveal two important truths about the dynamics of race and class in America: that both are important determinants of life chances, and that they measure distinct dimensions of stratification. The national data presented in Tables 7 and 8 reveal that race is a very powerful predictor of scores on standardized tests such as the SAT, even when one controls for parental education and family income. Conversely, the data presented in Tables 9 and 10 demonstrate that class-- as measured by family income and parental education-- is an important predictor of performance on the SAT within

⁹For similar findings, derived from an analysis of a nationally representative sample of high-school students, see Thomas J. Kane and William T. Dickens, "Racial and Ethnic Preference in College Admissions," *Brookings Policy Brief 9* (November 1996).

different racial and ethnic groups.¹⁰ In terms of the educational system, the most disenfranchised students are those who suffer from the disadvantages associated with both class and race. To the extent that class-conscious admissions policies are blind to this reality, they are unlikely to accomplish their putative objective: the enrollment of a racially and ethnically diverse student body which includes substantial numbers of poor and working-class blacks and Hispanics.

Table Seven

National White SAT Point Advantage Over Blacks, Controlling for Income, 1996

	Math	Verbal
<10	90	89
10-20	80	83
20-30	72	74
30-40	77	69
40-50	77	65
50-60	73	62
60-70	80	66
70-80	80	65
80-100	79	62
>100	69	53

Source: College Entrance Examination Board

¹⁰ Though the data presented here are for whites and blacks only, statistics provided by the College Entrance Examination Board reveal that the same broad patterns hold for other racial and ethnic groups, including Hispanics, Asian-Americans, and Native-Americans.

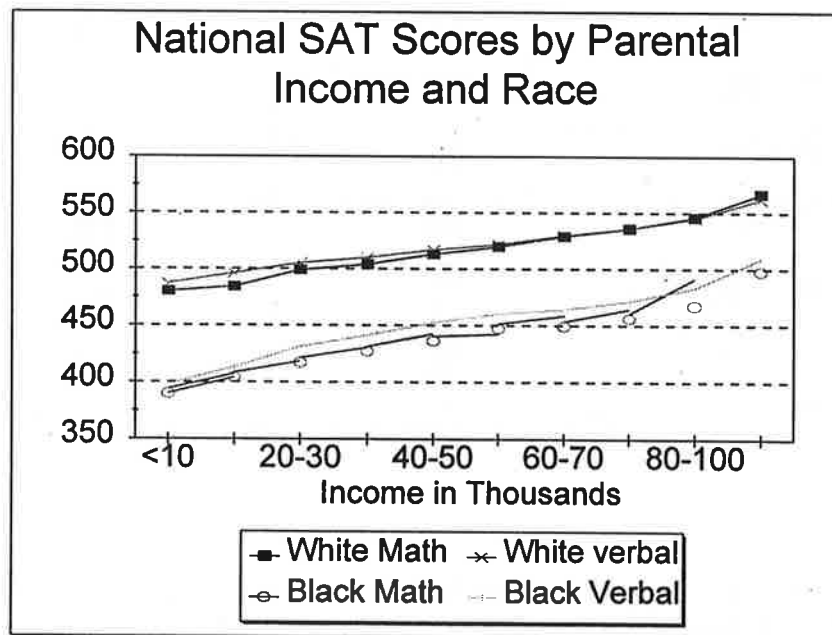
Table Eight

National White SAT Point Advantage Over Blacks Controlling for Education

Highest Level of Parental Education	Math	Verbal
No HS	69	72
HS	82	74
AA	80	70
BA	94	79
Graduate	96	82

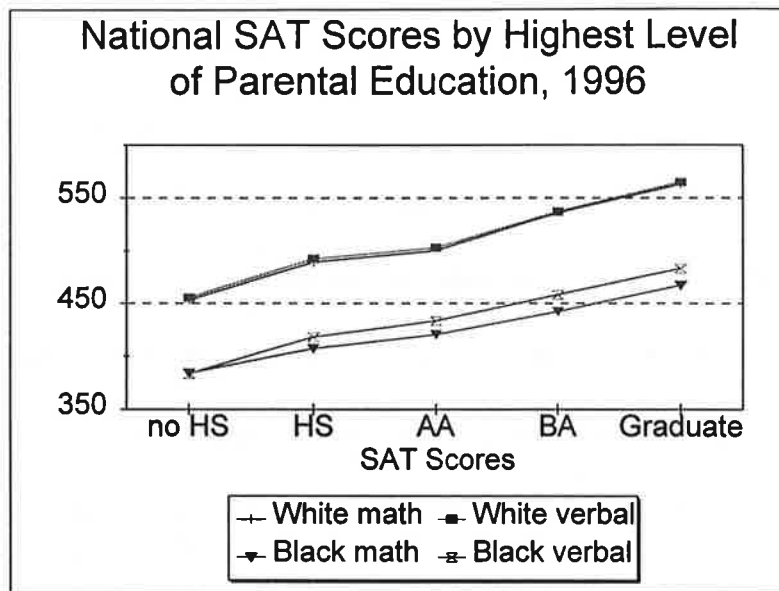
Source: College Entrance Examination Board

Table Nine



Source: College Entrance Examination Board

Table Ten



Source: College Entrance Examination Board

If class-conscious, but color-blind admissions policies will not be an effective substitute for race-conscious affirmative action, what about the other proposal most commonly proffered by those who remain committed to diversity and inclusiveness-- the broadening of the “pipeline” of qualified minority applicants? While such efforts, which at the University of California date back at least to the 1960s, should be intensified, the experience of recent decades suggests that the strategy of expanding the pool of UC-eligible blacks and Hispanics is likely to be a slow and arduous one. Based on available evidence, it would seem unlikely that such programs would eliminate the need for admissions policies that take race into account.

The University of California has been a pioneer in this field, developing innovative programs such as Early Academic Outreach, Mesa, and Puente in efforts to

improve the K-12 academic preparation of California's minority students. At its July 1997 meeting, the Board of Regents endorsed the recommendation of a 35-member Outreach Task Force, including a proposal to double annual expenditures for outreach from \$60 million to \$120 million. The objective is to increase the number of UC-eligible black and Hispanic high school graduates from 4200 to 8500 over a five-year period. In order to do this, partnerships will be established between UC and 50 "educationally disadvantaged" high schools, as well as 100 middle schools and 300 elementary schools that feed into these high schools. Funding for the new initiative, which has not yet been assured, is to come from a variety of sources, including private foundations and businesses as well as the state and federal government.¹¹

Were the plan to succeed, black and Hispanic eligibility rates, at 4 and 5 percent, respectively, in the most recent eligibility study, would still lag behind those of whites and especially Asians (see Table 4). Nevertheless, this would constitute a considerable narrowing of the gap, especially within a span of only five years. Critics have already expressed skepticism, however, about the plan's success; Regent Richard Russell, a member of the Task Force and the principal author of its minority report, has questioned whether the numbers add up and stated flatly that "the challenges that face us in light of the elimination of affirmative action cannot be addressed by UC outreach efforts alone."¹²

Even if the entire \$120 million is forthcoming, UC's effort will be a relatively

¹¹ See "New Directions for Outreach," Report by the Outreach Task Force for the Board of Regents of the University of California, July 1997.

¹² See Amy Wallace, "UC Regents Panel OKs Minority Outreach Plan," *Los Angeles Times*, July 18, 1997; Stephen Magagnini, "UC Gets Plan to Increase Its Diversity," *Sacramento Bee*, July 3, 1997; and Minority Report of the University of California Outreach Task Force, July 1997.

modest one. More than \$33 billion is expended annually for public K-12 education in California, and the system includes over 900 high schools,¹³ only 50 of which will be targeted by the outreach plan. If the new outreach initiative is nevertheless successful in rapidly expanding the pool of black and Latino students formally eligible to attend UC, it is far less likely to render these students competitive with white and Asian students in the battle for admission to the most prestigious UC campuses such as Berkeley and UCLA. This distinction between students who are “qualified” and those who are “competitive” under conditions of strict color blindness will be even more pertinent in the conflict for places in UC’s highly selective medical and law schools.

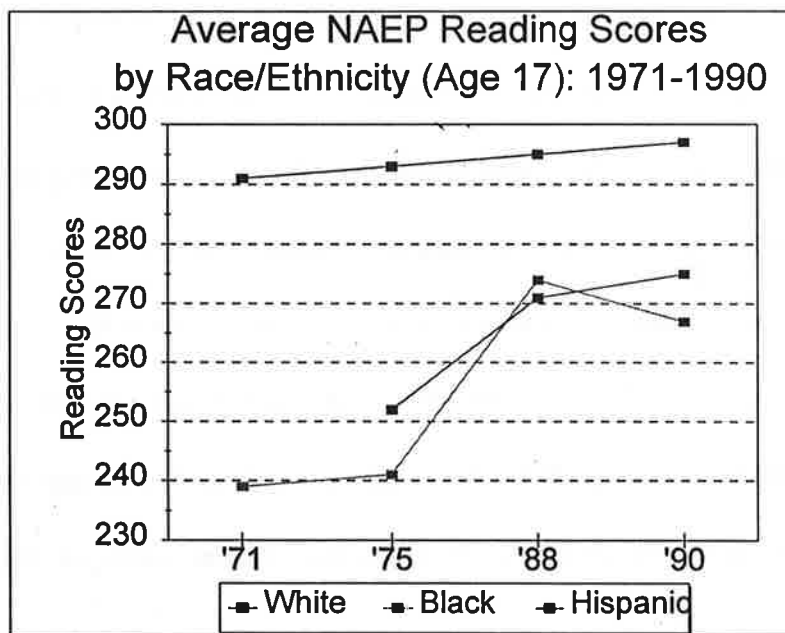
To be sure, none of this is meant to suggest that UC is misguided in expanding outreach efforts designed to broaden the “pipeline” of qualified minority students. But a realistic assessment of the results of efforts to narrow the performance gap between children of different racial and ethnic backgrounds in recent decades shows that progress, while visible, has been painfully slow. The best data source on the matter is the National Assessment of Educational Progress, a federally sponsored program that began in the early 1970s and continues today. What the evidence reveals is that the gap between blacks and Hispanics, on the one hand, and whites, on the other, while smaller than in 1971, remains troublingly large.

The results reported in Table 11 demonstrate that differences in reading skills, though gradually declining, remained substantial in 1990. Further analysis of the data

¹³ Data provided by Gerald Hayward of Policy Analysis for California Education (PACE), Sacramento and Berkeley.

reveals that these differences were especially pronounced at the high end of the distribution; thus, whereas 8.7 percent of white students attained scores of 350 or higher-- defined as the capacity to "synthesize and learn from specialized reading materials"-- only 1.5 and 2.4 of black and Hispanic students, respectively, scored at this level. Differences in mathematics were, if anything, more pronounced; 1.5 percent of whites scored 300 or higher, compared to .1 percent of blacks and .2 percent of Hispanics. As was the case with reading, these differences were nevertheless somewhat smaller than in the earlier NAEP studies.¹⁴

Table Eleven



Source: L. Scott Miller, *An American Imperative*, (Yale University Press, New Haven and London; 1995), p 49.

We should be clear on what these persisting large-scale racial and ethnic

¹⁴ L. Scott Miller, *An American Imperative: Accelerating Minority Educational Achievement*, (New Haven: Yale University Press, 1995), pp. 45-59. Miller's synthetic volume is perhaps the best single work on the magnitude and sources of racial and ethnic differences in educational achievement.

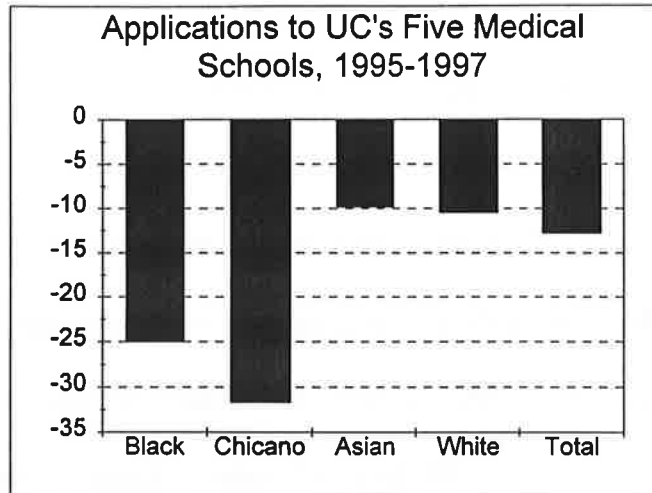
differences in academic performance do-- and do not-- mean. First, they do not mean that it is impossible to have racially diverse and inclusive student bodies in UC's undergraduate or professional schools-- a point that has been established conclusively by the vast increases in black and Hispanic enrollments at UC over the past 30 years. Second, it does not mean that UC students from historically underrepresented minorities are in any way "unqualified"-- on the contrary, the great majority of them have met the rigorous entrance requirements of UC's undergraduate and professional schools and go on to graduate from them. But these differences do mean that many of them would not have the opportunity to attend UC or other leading institutions of higher education if race-conscious admissions policies were not in place.

Medical Schools

The new Regental policy of official color-blindness was implemented for the first time at UC's five medical schools for the class entering in the fall of 1997, and its effects on applications and offers of admission are now known. According to systemwide data, applicants from historically underrepresented minorities declined 8.9 percent between 1995 and 1996-- the year after the Regents' policy was adopted, but before it was implemented.¹⁵ This trend accelerated in 1997, leading to an unprecedented two-year drop in applications of roughly one-quarter (from 1379 to 1039) and one-third (from 1534 to 1051) of black and Chicano applicants, respectively. White and Asian applications also declined during this period, but not nearly to the same extent (see Table 12).

¹⁵ "UC Medical School Admit and Yield Rates," UC Office of the President, January 15, 1997.

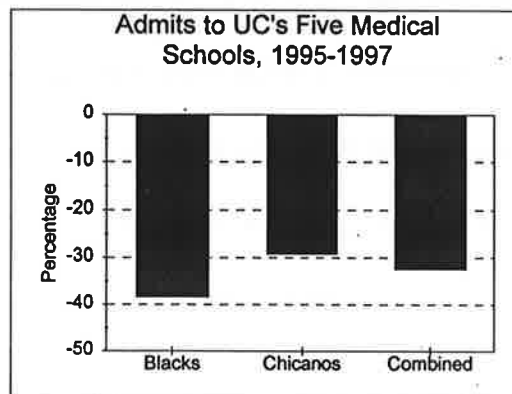
Table Twelve



Source: UC Office of the President

Given the declining numbers of applications from blacks and Chicanos, it is not surprising that the number of acceptances dropped as well. Even though the new policy was not yet in effect in 1996, the number of black and Chicano admits fell, respectively from 76 to 62 and 134 to 117 between 1995 and 1996. In 1997, with color-blindness now official policy, the numbers continued to fall: 47 black and 95 Chicano admits. Overall, between 1995 and 1997, the number of black and Chicano admits at UC declined 38 and 29 percent, respectively (see Table 13).

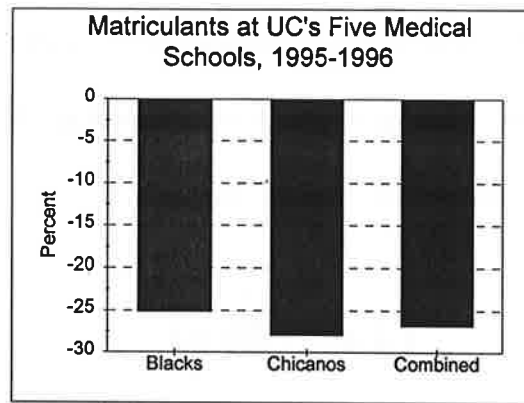
Table Thirteen



Source: UC Office of the President

Though the final enrollment numbers are not yet in for fall 1997, preliminary figures suggest a substantial two-year drop in the number of minority matriculants. In 1995, 36 blacks and 54 Chicanos enrolled in UC's five medical schools; in 1997, the numbers are expected to be 27 and 39. Combining the two years since the Regents announced the elimination of affirmative action, this constitutes a one-quarter decline in black matriculants and a slightly larger drop among Chicanos (see Table 14).

Table Fourteen



Source: UC Office of the President

Turning to national implications, it is striking that affirmative action has been eliminated at the very undergraduate institutions that have been most successful in producing minority physicians. Because of SP-1 and the Hopwood decision, the University of California and the University of Texas have now become the only two major research universities in the country forced to abandon race-conscious policies. These policies have been important not only to their own diversification, but also to the diversification of the medical profession nationwide. According to data provided by the

Association of American Medical Colleges, UC Berkeley, UCLA, and the University of Texas, Austin are three of the top five undergraduate producers of accepted minority applicants to medical school, with both of the other leading producers-- Xavier (La.) and Howard-- being traditionally black institutions (see Table 15). Even more remarkably, the UC and UT systems together included 13 of the 18 leading producers of accepted Mexican-American applicants to medical school, with every single one of UC's 8 undergraduate institutions being among the leading feeder schools (see Table 16). The elimination of affirmative action at UC and UT thus threatens to narrow drastically the "pipeline" of minority students to the nation's medical schools. Ironically, race-conscious affirmative action has now been abolished at the two institutions where it has been most successful in accomplishing one of its most central goals: the production of larger numbers of highly qualified minority applicants.

Table Fifteen

LEADING UNDERGRADUATE PRODUCERS OF MINORITIES ACCEPTED TO U.S. MEDICAL SCHOOLS (1995)*

1) Xavier (La.)	81
2) UC Berkeley	48
3) UCLA	46
4) Howard	45
5) Texas-Austin	40

Source: Project 3000 By 2000: Progress to Date, Year Four Progress Report, Association of American Medical Colleges, April 1996, p. 24.

* Underrepresented minorities are defined by the AAMC as Black, Mexican-American, Native-American, and mainland Puerto Rican.

Table Sixteen

LEADING UNDERGRADUATE PRODUCERS OF MEXICAN-AMERICANS ACCEPTED TO U.S. MEDICAL SCHOOLS (1995)

1. Texas-Austin	32
2. UC San Diego	25
3. UCLA	25
4. Stanford	21
5. UC Irvine	20
6. Texas A & M	17
7. UC Berkeley	16
8. New Mexico	13
9. Arizona	12
10. UC Riverside	11
11. St. Mary's	11
12. Texas-San Antonio	8
13. Texas-El Paso	8
14. UC Santa Barbara	7
15. Texas-Pan American	6
16. UC Davis	6
17. Southern California	5
18. UC Santa Cruz	5

Source: Project 3000 By 2000: Progress to Date, Year Four Progress Report, Association of American Medical Colleges, April 1996, p. 42.

What would be the effect on minority enrollments in medical schools nationwide if the entire country were to follow the example of California and Texas in eliminating affirmative action?¹⁶ While available data do not permit a precise estimate of the degree

¹⁶ Though the nation has changed in fundamental ways over the past thirty years, some historical perspective may be useful here. In 1963-1964, one year before President Johnson's famous speech at Howard University articulated the case for race-conscious affirmative action, the student body of America's 83 medical schools was 2.2 percent black. Of those black students enrolled at medical school, 76 percent were enrolled at the two historically black medical schools-- Howard and Meharry. The nation's remaining 81 medical schools enrolled approximately one black student every two years. Thus, almost a decade after the Supreme Court had declared segregated schools unconstitutional, approximately 160 students comprised the total black enrollment-- Howard and Meharry aside-- at medical schools nationwide. See Lyndon B. Johnson, "To Fulfill These Rights," in George E. Curry, ed., The Affirmative

of resegregation at the nation's medical schools were both the letter and the spirit of Hopwood and Proposition 209 to become the law of the land, there can be little doubt that a policy of official color blindness would lead to a serious downturn in minority enrollments. In 1995-1996, 46,591 students applied to medical school, with 29,236 (63 percent) failing to gain admission to a single institution.¹⁷ While some of the medical students from underrepresented minority groups (defined by the AAMC as blacks, Chicanos, mainland Puerto Ricans, and Native Americans) admitted under affirmative action would no doubt shift to less selective institutions if race-conscious policies were eliminated, these figures suggest that conditions of strict colorblindness would be likely to exclude a substantial portion of them from medical school altogether.¹⁸

To observe that many of the minority applicants admitted under a policy of race-conscious affirmative action might be rejected under a policy of strict colorblindness is in

Action Debate (Reading, Mass.: Addison-Wesley Publishing Co., 1996), pp. 16-24, and "Racial and Ethnic Diversity in U.S. Medical Schools," New England Journal of Medicine, 331: (August 18), 1994, pp. 472-476.

¹⁷ Calculated from Minority Students in Medical Education: Facts and Figures IX, Association of American Medical Colleges, 1995, pp. 51-57.

¹⁸ Because medical schools admit applicants on the basis of a complex and holistic process (including personal interviews), projections of the impact of eliminating affirmative action on minority enrollments are especially difficult. Nevertheless, academic performance, as measured by such conventional indicators as by GPAs and MCATs, remains central in determining who does and does not get admitted to medical school. According to AAMC data for applicants accepted to medical school in 1995, the average GPA of admitted black males and Chicanos was 3.13 and 3.22, respectively, compared to 3.54 and 3.58 for whites and Asian Americans-- indirect evidence indicating that race was a significant consideration in determining who was admitted to medical school. Patterns of performance on the MCATs paralleled GPAs: the mean MCAT in physical sciences for black and Chicana women was 5.7 and 6.7, respectively, compared to 8.6 and 9.0 for white and Asian-American women. An examination of the AAMC data on the MCATs and GPAs reveals racial and ethnic differences of similar magnitude for both men and women; see Minority Student in Medical Education: Facts and Figures IX, Association of American Medical Colleges, 1995, p. 58. Combined with the early evidence from the University of California, these figures would seem to suggest that color-blind admissions would mean a considerable reduction in the number of blacks and Chicanos in medical school nationwide.

no way to imply that they are not fully qualified to undertake medical training. On the contrary, available longitudinal evidence suggests that they will successfully complete their training, pass their medical boards, and go on to successful careers as practicing physicians.¹⁹ Moreover, recent evidence from a careful study published in The New England Journal of Medicine demonstrates that minority physicians are far more likely to practice in underserved communities.²⁰ The end of race-conscious affirmative action, then, would exacerbate the already serious problem of a shortage of physicians in the communities that need them most. It is no exaggeration to say that a policy of color blindness is likely to undermine the capacity of the nation's medical schools to fulfill one of their most fundamental missions: that of providing medical services to all segments of the nation's diverse population.

Law Schools

Like medical schools, law schools have often been the subject of key court decisions on affirmative action, with the Hopwood decision at the University of Texas being only the most recent example. Under SP-1, UC's law schools, like all other schools and programs within the University of California, are banned from any consideration of race in admissions. Law schools differ from many other schools and

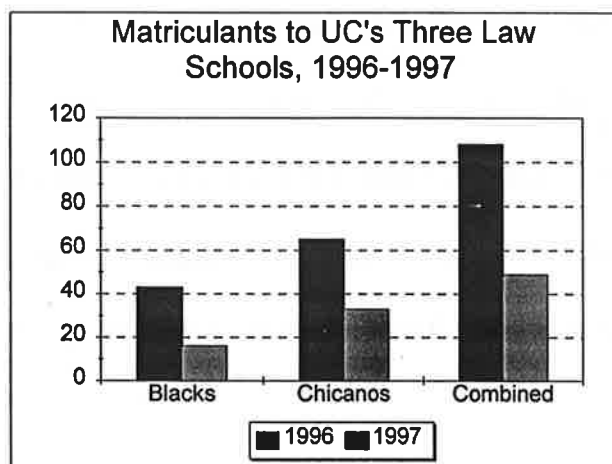
¹⁹ See, for example, Minority Students in Medical Education: Facts and Figures IX, Association of American Medical Colleges, Winter 1995, pp. 66-67, 80-81, 84-98.

²⁰ Miriam Komaromy, M.D., et al., "The Role of Black and Hispanic Physicians in Providing Health Care for Underserved Populations," New England Journal of Medicine 334: 1305-1310 (1996). See also Joel C. Cantor, et al., "Physician Service to the Underserved: Implications for Affirmative Action in Medical Education," Inquiry 33: 167-180 (Summer 1996).

programs within UC, however, in that their admissions policies tend to rely particularly heavily on standardized test scores and grades. Accordingly, we would expect that law schools would exhibit an especially sharp change in composition as a result of the new policy.

Interestingly, UC's three law schools (Berkeley, Davis, and UCLA)--unlike UC's medical schools--exhibited no clear pattern of decline between 1995 and 1996 in minority applicants, admits, and matriculants. But in 1997, the first year in which the policy of color blindness was in effect, minority applications, admissions, and enrollments all dropped sharply. For the three campuses combined, projected black and Chicano matriculants dropped from 43 to 16 and 65 to 33, respectively. Together, black and Chicano matriculants are expected to be well under half of what they were in 1996²¹ (see Table 17).

Table Seventeen



Source: Law School Admissions Offices, University of California,

²¹ Since the 1997 systemwide matriculation figures are based on students who plan to register (as opposed to those who actually register) these figures may well underestimate the decline in minority enrollments. In 1996, blacks and Chicanos constituted 108 of 722 matriculants (15.0 percent); in 1997, they comprise 49 of 849 (5.8 percent) of students who say they intend to enroll.

Berkeley, Davis, and Los Angeles

The most widely publicized drop, making front-page news in both the New York Times and the Los Angeles Times,²² occurred at UC's most prestigious law school: Berkeley's Boalt Hall. Between 1996 and 1997, the number of black admits admitted to Boalt plummeted from 75 to 14; of these students, none plan to attend.²³ Among Chicanos, the decline was sharp but not as drastic as among blacks; 27 were admitted (compared to 53 in 1996), and 6 have declared their intention to enroll (compared to 22 in 1996).

While faculty members insist that admissions decisions at Boalt have always been made on the basis of many other factors other than GPAs and LSATs, a review of the data in Boalt's 1996 Annual Report reveals that even relatively small differences on the LSAT drastically affected chances of admission when race-conscious affirmative action was still permitted; thus students with GPAs of 3.75 or above enjoyed an 89 percent admissions rate with LSATs of 168-173, which dropped to 45 percent at scores of 162-167.²⁴ With affirmative action no longer in place as a counter-balance to this heavy reliance on standardized tests, it was almost inevitable that the number of minority admits would drop sharply.²⁵

²² See Peter Applebome, "Minority Law School Enrollment Plunges in California and Texas," New York Times, June 28, 1997; Amy Wallace, "UC Law School Class May Have Only 1 Black," Los Angeles Times, June 27, 1997. See also Louis Freedberg, "UC Law Schools at Wits' End as Minorities Go Elsewhere," San Francisco Chronicle, July 18, 1997.

²³ In 1996, 20 blacks enrolled at Boalt in an entering class of 263. See 1996 Boalt Hall Annual Admissions Report, pp. 9, 12. One of the three black students admitted to Boalt in 1996 who deferred admission is, however, planning to matriculate.

²⁴ Boalt Hall Annual Admissions Report, 1996, p. 21.

²⁵ Nevertheless, there is still apparently considerable institutional variation in how sharp this drop will be in the absence of affirmative action. UCLA, which placed more emphasis than Boalt on social and

If affirmative action were eliminated nationally and no major reforms were introduced in the admissions process at leading law schools, results similar to those seen at Boalt would seem likely.²⁶ Comprehensive data including GPAs and LSAT scores for all students who took the LSAT in 1995-1996-- provided to me by the LSDAS show conclusively that white and Asian-American applicants predominate at the top end of the distribution (see Table 18). Thus, of the 3,619 students nationwide who had LSATs of 165 or more and GPAs of 3.50 or better, only 22 were black and 20 Chicano. Accordingly, were the nation's top dozen law schools to admit students on a purely on the basis of scores on standardized tests and grades, blacks and Chicanos-- who together constitute approximately 20 percent of the nation's young people-- could comprise barely one percent of the entering class.

Table Eighteen

LSAT	GPA	Total N	Black N	Chicano N	Combined N	Combined %
170+	3.75+	637	2	3	5	0.8
165+	3.75+	1629	10	7	17	1.0
165+	3.50+	3619	22	20	42	1.2
160+	3.50+	6983	71	44	115	1.9
160+	3.25+	10588	125	84	209	2.0

economic disadvantage, saw a less drastic—though still large—drop in black and Chicano admissions from 183 to 94.

²⁶Concerned about the resegregation visible at the University of California and the University of Texas, the American Bar Association recently appointed a commission to study the possibility of reducing the role of the LSATs in law school admissions (see Richard Willing, "ABA Plan Would Give Minorities Better Chance to Enter Law School," *USA Today*, August 5, 1997). An important recent study of the projected effects of the elimination of affirmative action on law schools nationwide which comes to conclusions similar to those reached in this paper; see Linda F. Wightman, "The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions," *New York University Law Review* v. 72, no.1 (April 1997).

Source: Law School Admission Council, Newtown, PA.

Faced with the realization that the continuation of existing admissions policies will, if combined with the elimination of any consideration of race and ethnicity, lead to a substantial decline in minority enrollments, a number of critics have begun the process of fundamentally rethinking long-established criteria and practices. At the center of this re-examination have been law professors and law students. Lani Guinier and her colleagues at the University of Pennsylvania, for example, have made a powerful case that the criteria used to admit students to law school (especially elite ones) have surprisingly little to do with the factors that determine functional competence as lawyers. What is needed they suggest, is a radical reassessment of what we mean by “merit” as well as a major reduction in reliance on standardized tests. The real consequence of giving heavy weight to tests such as the LSAT, they argue, is to screen out large numbers of minority and low-income students who have the capacity to make important contributions to the legal profession.²⁷

Taking a similar tack, a group of students at Boalt Hall recently issued a report with a number of concrete recommendations as to how to preserve diversity in a “post-affirmative action era.”²⁸ In addition to offering a detailed critique of Boalt’s current policy, the students propose to increase the weight in the admissions process of such

²⁷ Susan Sturm and Lani Guinier, “The Future of Affirmative Action: Reclaiming the Innovative Ideal,” California Law Review v. 84 no. 4 (July 1996); Lani Guinier, et al., Becoming Gentlemen: Women, Law School, and Institutional Change Boston: Beacon Press, 1997; and Lani Guinier, “The Real Bias in Higher Education,” New York Times, June 24, 1997.

²⁸ Cecilia V. Estolano, et al., “New Directions in Diversity: Charting Law School Admissions Policy in a Post-Affirmative Action Era,” Boalt Hall School of Law, University of California, Berkeley, May 9, 1997.

factors as community service and what they call “experiential diversity.” One of the unintended consequences of the elimination of affirmative action has been to stimulate a long-overdue re-assessment of prevailing definitions of “merit” and of previously taken-for-granted assumptions about the purpose and process of college and professional school admissions. Whether this reassessment will lead to basic alterations in how law schools and other institutions of higher education actually conduct admissions, however, remains to be seen.

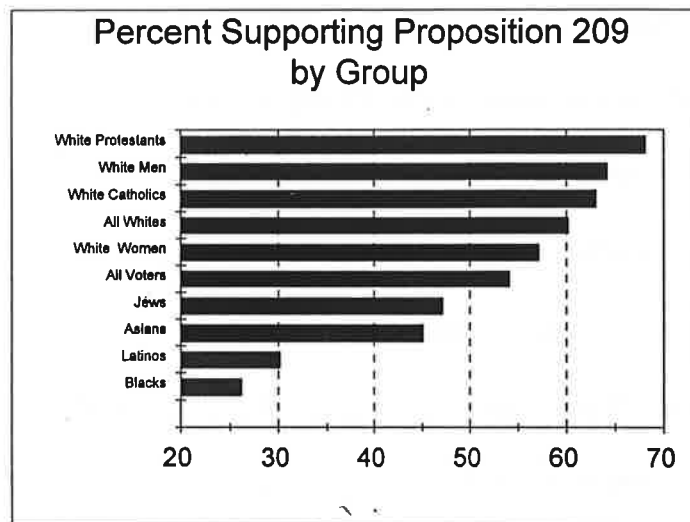
PUBLIC OPINION

Do Americans want—or find acceptable—the resegregation of higher education that is the most visible consequence of the end of affirmative action? Conservative activists and pundits alike insist that Americans clearly favor an end to race-conscious affirmative action, citing the victory of California’s Proposition 209 as proof positive that only a policy of strict color blindness can express the “will of the people.” Yet a closer examination of the data, including the vote on Proposition 209, reveals a picture of a divided and confused electorate, with no clear majority either in favor or opposed to affirmative action.

A detailed breakdown of the electorate by Voter News Service (see Table 19) reveals that voters were sharply divided along racial lines, with well over two-thirds of blacks and Latinos opposing 209. In addition, a clear majority of Asians and Jews-- two groups commonly portrayed as victims of “racial preferences”-- voted against 209. The passage of Proposition 209 was due to strong majority support among California’s white,

non-Jewish voters, who comprise over 70 percent of the state's electorate despite being slightly less than 50 percent of the population.

Table Nineteen



Source: Voter News Service, N=3010

Remarkably, more than one voter in four who cast his or her ballot for Proposition 209 told a Los Angeles Times exit poll that they favored affirmative action programs. The results of this poll of more than 2,000 voters strongly suggest that many Californians mistakenly thought a vote for 209 was a vote for affirmative action. Twenty-seven percent of those who voted for 209-- well over 1.3 million voters-- also voiced support for "affirmative action programs designed to help women and minorities." If even half of these pro-affirmative action Californians voted for 209-- dubbed the "California Civil Rights Initiative" by its proponents-- out of confusion, their numbers alone would have reversed the outcome.²⁹

²⁹ Jerome Karabel and Lawrence Wallack, "Proponents of Prop. 209 Mised California Voters," in The

If it is not at all clear that a majority of Americans favor the elimination of affirmative action, where then does the center of public opinion reside? Overall, Americans are decidedly ambivalent about “affirmative action”-- they worry about “quotas” and the admission and promotion of “unqualified” people, but they also recognize that the playing field is not level and that programs are needed to ensure equal opportunities for minorities and women. President Clinton captured this ambivalence very well in his “Mend It, Don’t End It” speech of July 19, 1995. Done the right way, affirmative action programs remained indispensable, he argued, to the achievement of greater equality of opportunity for all.

In the aftermath of his speech, two national polls examined where voters stood on affirmative action: though worded slightly differently, both found that 60 to 65 percent of voters approved President Clinton’s position, with fewer than one in four favoring the outright elimination of affirmative action.³⁰ Had an alternative proposition reflecting the President’s “mend it, don’t end it” stance been on the ballot in California, private polls conducted by opponents of 209 suggested that it would have passed by a substantial margin.

What are the implications of these findings for those who believe that the elimination of race-conscious policies would do serious harm to both the system of higher education and the larger society? The first-- and perhaps the most crucial-- is that the outcome of the current political struggle over the future of affirmative action is far from

Christian Science Monitor, December 5, 1996.

³⁰ See Jerome Karabel, “What’s Right and What’s Wrong With This Anniversary,” in The Chicago Tribune, September 24, 1995.

settled.

Second, the findings presented here suggest that it may be premature for affirmative action advocates to deploy most of their energies trying to preserve as much diversity and inclusiveness as possible within the framework of strict color blindness. Instead, their primary task is to make clear that the choice before us is either the continued use of race-conscious policies or the resegregation of American higher education. Voters, legislators, and judges alike must be forced to grapple with an unpalatable truth: that there is no easy “third way” that will reconcile color blindness with racial and ethnic inclusiveness. Ironically, the dramatic conservative victories of foes of affirmative action in California have presented advocates of race-conscious policies with an extraordinary opportunity: to demonstrate, based on the concrete consequences of SP-1 and Hopwood, that implementation of the ostensibly neutral principle of color blindness will in practice mean a return to de facto racial segregation.

If the task of defending race-conscious policies in higher education has never been more difficult, the urgency of doing so has never been greater. For if those committed to the elimination of affirmative action succeed in their efforts, their victory will mean a decisive reversal of the hard-won gains of the past thirty years. If this period is to come to an end, let it at least be the result of a clear-headed and sober public debate about the choice actually before us: either the continuation of some form of race-conscious affirmative action programs or a return to a level of racial and ethnic segregation in American higher education not seen in more than a quarter of a century.