

61ST STORY of Level 2 printed in FULL format.

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THE DALLAS MORNING NEWS

June 3, 1997, Tuesday, HOME FINAL EDITION

SECTION: NEWS; Pg. 18A

LENGTH: 632 words

HEADLINE: Diversity on campus addressed in session Bills were response to
Hopwood decision

BYLINE: Sylvia Moreno, Austin Bureau of The Dallas Morning News

DATELINE: AUSTIN

BODY:

AUSTIN - For the first time in recent history, lawmakers said, they made it their business to dictate college admissions policies to ensure diverse campuses across Texas.

This was the session, say some legislators, that will be known simply as "post-Hopwood" - the buzz phrase conjuring up the federal court ruling that banned the affirmative action admissions policy at the University of Texas Law School.

That decision was subsequently interpreted by Attorney General Dan Morales to apply to all affirmative action policies at all public colleges and universities.

The case, known for lead plaintiff Cheryl Hopwood, set the scene for legislative efforts this session to preserve standing for minorities, not only in higher education but also in state hiring and contracting.

Faced with the legal ban on using race- and ethnicity-based methods to promote diversity, legislators sought to devise creative - and legal - ways to ensure that colleges reach out to minority students.

The answer to the conundrum was embodied in the "Top 10 percent" bill sponsored by Rep. Irma Rangel, D-Kingsville, and Sen. Royce West, D-Dallas.

Under the measure, already signed into law by Gov. George W. Bush, the state's public colleges and universities will have to offer admission to any Texas high school applicant who graduates in the top 10 percent of his or her class. Colleges may opt to offer automatic admission to students in the top 25 percent of their classes.

Under the bill, students other than those who qualify for automatic admission will be selected based on "race-neutral" criteria that include a student's socioeconomic background, leadership potential, parents' education level and the student's extracurricular activities, including jobs held during school to support the family.

"I think that that bill can be useful," said Al Kauffman, a senior attorney for the Mexican-American Legal Defense and Educational Fund. "But it's going

Could you please see if
you can find this bill,
which was passed and
signed, on the web?
Thank

THE DALLAS MORNING NEWS, June 3, 1997

to take a lot of work to continue to monitor the universities."

A second, more controversial, admissions bill aimed at "leveling the playing field" for minority students made it out of the Legislature over the weekend. The bill has been sent to Mr. Bush, but his office has said the governor is undecided on whether to sign it.

That measure would require public colleges and universities to apply the same grade point average admissions standard to all students.

The bill, written by Rep. Ron Wilson, D-Houston, was filed in response to the Hopwood decision, which halted minority recruiting - except for that of athletes, who are often admitted to UT and Texas A&M, for instance, on the basis of athletic prowess rather than academic skills.

The bill crystalized the issue of race in the legislative debate, forcing an emotional soliloquy by one Houston legislator over whether Texas' top schools value minority students more for their running ability or vertical leaps than for their academic potential.

Neither of the admissions bills, however, deals with entrance standards for graduate or professional schools.

The Legislature also passed a bill requiring the Texas Higher Education Coordinating Board to monitor minority admissions, scholarships and graduation rates at state colleges and universities in the wake of the Hopwood decision. The bill was sent last week to Mr. Bush, whose spokeswoman said Monday that he was still considering it.

The session also opened with a clear message from the Republican-controlled Senate that state-endorsed minority contracting and minority hiring programs were in jeopardy this year.

In the end, the goals set in the budget six years ago to promote state agencies' hiring of minority members and to increase minority participation in state-issued contracts remained intact.

GRAPHIC: PHOTO(S): (1-2 Associated Press) 1. Sen. Royce West (left) and Rep. Ron Wilson confer last week on college admissions legislation. 2. From left: Sen. Mike Moncrief, Rep. Ron Wilson and Sen. Royce West meet on the Senate floor last week to discuss legislation on college admissions. (2ST-19A.)

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3RD STORY of Level 2 printed in FULL format.

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December 17, 1997, Wednesday, HOME FINAL EDITION

SECTION: NEWS: Pg. 35A

LENGTH: 510 words

HEADLINE: Texas PREP program will give helping hand to college-bound Top seniors at lower-income high schools are targeted

BYLINE: Linda K. Wertheimer, Staff Writer of The Dallas Morning News

BODY:

Top-ranked seniors from nine Dallas-area high schools will be eligible for special Saturday classes as part of a new program meant to increase their chances of success in college.

Bank of America Texas, the University of Texas at Austin and the Dallas school system launched the effort at a news conference Tuesday. The program is called Texas PREP, or Partners Responding to Educational Priorities.

It is in response to a new state law that guarantees the top 10 percent of each Texas high school's graduating class automatic admission to a state college or university.

Dallas and Houston will start the program in early 1998.

The Dallas program for nine area schools starts Feb. 28 at Kimball High School. The program's founders are targeting high schools that are lower-income and mainly minority.

"We are concerned with the top 10 percent," said Dr. James Hill, associate vice president for administration and public affairs at the University of Texas at Austin. "We at UT-Austin not only want to admit them, but we want them to be successful once they get there."

Other Dallas high schools to be the first to take part are Adamson, Carter, Moises Molina, Roosevelt, A. Maceo Smith, South Oak Cliff and Sunset. The ninth in the area is Wilmer-Hutchins.

The program intends to help make sure students can handle English and writing courses in college, said Dr. Robert R. Galvan, special assistant to the UT-Austin president.

English professors will work with high school English teachers to design the curriculum for nine Saturday morning courses. They'll review standardized test scores to decide which students should be referred to the program.

Dr. Galvan predicted that 25 to 30 percent of the highlyranked students will need to take the classes, which probably will cover grammar, writing skills and term-paper writing.

THE DALLAS MORNING NEWS, December 17, 1997

This summer, the college will run the program again for high school juniors. UT-Austin and Dallas school officials wanted to start with seniors because the graduating class of 1998 will be the first group affected. Bank of America is providing funding for the teacher training.

UT-Austin already has noticed some below-average college entrance exam scores from applicants in the top 10 percent of their graduating classes, Dr. Galvan said. The students would not have met the college's previous admissions requirements, but the state law now makes them eligible. The university used to require an average SAT score of 1,250 out of a possible 1,600.

Dallas school officials praised the new program Tuesday.

Dr. James Hughey, the acting superintendent, said he would like the program at all 21 Dallas high schools.

"We're excited to have this opportunity to prepare students," Dr. Hughey said.

Also during the news conference, the UT-Austin alumni group, the Ex-Students Association, announced it has raised \$ 1 million in scholarships to award this year across the state. The full-tuition, four-year scholarships will be awarded to minority students who are in the top 10 percent of their classes.

LANGUAGE: ENGLISH

LOAD-DATE: December 18, 1997

8TH STORY of Level 2 printed in FULL format.

Copyright 1997 U.S. News & World Report
U.S. News & World Report

November 24, 1997

SECTION: OUTLOOK; ON SOCIETY; Pg. 22

LENGTH: 873 words

HEADLINE: Let's attack merit!

BYLINE: By John Leo

BODY:

A good grade-point average won't get you into the nursing program at Cuesta College, a community college in California. No, requiring good marks is an "artificial barrier" to nursing progress, according to the state's community-college chancellor, so admission to the program is now by lottery. A working woman named Judy Downing didn't make the program, though she studied hard at night school and got straight A's in the required courses. But some candidates with C averages won the lottery and got in.

This is just one sign of the gathering assault on good grades, test scores, and nearly all known indicators of merit and academic achievement. Some of this is coming from a philosophy of radical egalitarianism (people must be treated as equal in all matters, regardless of talent or competence). But most of it has been drummed up to protect the excesses of an affirmative action movement in deep trouble with the courts and the American people.

Some examples: Lani Guinier has called for a lottery to determine admission to colleges, after minimal qualifications have been met by applicants. The president of the American Bar Association started a pilot project to de-emphasize the Law School Admission Test (LSAT). A few colleges are abandoning use of the SATs, and the Clinton Department of Education is investigating whether the University of California is violating antidiscrimination law by using test scores for graduate school admissions. Texas now bypasses testing by admitting into the state university system the top 10 percent of students from all high schools, including schools where a large percentage of students can barely read or write.

It's a boat race. Education journals regularly carry attacks on merit and tests. (Sample: Change magazine's article "Standardized Testing: Meritocracy's Crooked Yardstick.") The New York Times, an unfailing barometer of political correctness, ran a long Page 1 article finding (surprise!) "wider sympathy" and "gathering data" calling the SATs into question. The Times revived the old charge of "cultural bias" on the SAT, as demonstrated by the test's use of the word "regatta." (Unmentioned by the Times: The test is endlessly combed for possible bias, and "regatta" hasn't appeared on a test since 1974.)

Colleges can no longer get around the Supreme Court's Bakke decision by pretending that race is just one factor in diversity admissions. We now know too much about how those admissions really work, and the courts have upheld Proposition 209 in California and the Hopwood decision in Texas, a reverse-discrimination suit. So an effort is underway to circumvent or discredit all objective criteria for admissions.

U.S. News & World Report, November 24, 1997

The SATs in particular are under heavy attack because they consistently show 200- to 230-point gaps between test scores of whites and blacks. The argument is that the tests can't be any good because not enough blacks and Latinos do well on them. But attacking the tests is like attacking thermometers because of cold weather. A ton of data tells us that they are merely reporting the truth--that depressingly large numbers of non-Asian minority-group members arrive at college too poorly prepared to do well. When used as they are now (on a weighted basis with grades and other criteria), "the scores are the most reliable known predictor of academic success," as legal writer Stuart Taylor Jr. recently wrote in a long analysis of the SAT issue.

Defenders of preferences now attempt to discount tests and grades by arguing that affirmative-action students do just about as well as better-qualified students. One such study of law schools rippled through the media all year, hailed by NBC's Tim Russert ("blacks who were admitted under affirmative action performed just as well as whites"), Time ("graduation and bar-exam pass rates similar to whites"), and Newsweek ("no real difference in either graduation or bar-passage rates").

Well, not exactly. The study by educational researcher Linda Wightman carried the telltale title, *The Threat to Diversity in Legal Education*, and muffled the negative evidence it found--21.9 percent of black law students entering schools in 1990-1991 failed to get a degree, compared with 9.7 percent of whites. Far from showing that blacks admitted under affirmative action did just as well as strongly credentialed blacks, Wightman found that blacks admitted under racial preferences were about three times more likely to drop out. And the affirmative-action group had a shockingly high attrition rate--43.2 percent either didn't finish law school or didn't pass the bar.

The "just as well" school of reporting reflects desire more than fact. People who defend preferences want what nearly all Americans want, a country in which no group is left behind. But they have fallen into a no-win strategy by fudging evidence and attacking all academic qualifications to cloak what is really happening. That attack, Taylor says bluntly, will descend on "every objective measure of cognitive capacity or academic achievement that has ever been devised, or ever will be, until more black and Latino children get decent educations in their early years." Sad, but probably true.

GRAPHIC: Picture, No caption; Drawing, No caption (Hal Mayforth for USN&WR)

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November 8, 1997, Saturday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 2817 words

HEADLINE: DIVIDING LINES: A special report.:
Colleges Look for Answers To Racial Gaps in Testing

BYLINE: By ETHAN BRONNER

BODY:

Universities around the country are facing an agonizing dilemma: If they retain their affirmative-action admissions' policies they face growing legal and political challenges, but if they move to greater reliance on standardized tests, the results will be a return to virtual racial segregation.

Test scores by black and Hispanic students remain stubbornly below those of whites. This phenomenon, which cuts across all income groups, is only now being widely studied, with several scholarly reports offering new explanations for it.

At the same time, longtime critics of standardized tests are finding wider sympathy for their argument that the tests are misguided. New data suggest that S.A.T. scores and their professional-school equivalents are weak predictors of academic and career success.

Still, admission officials say that much as they would love to rely more on nuanced measures like essays and interviews, the pressures to use test scores are growing from the sheer volume of applicants, limited budgets for evaluating them and the rise of college ranking guides that emphasize test scores.

Many officials agree with Donald M. Stewart, president of the College Board, who says that the risk of increased reliance on standardized tests is "simply, the resegregation of higher education."

"We're looking at a potential wipeout that could take away an entire generation," Mr. Stewart said. "The social cost of that would be too high. America can't stand that."

Concerns over standardized tests are as old as the tests themselves. But with the nation's two most populous states, California and Texas, now forbidden to use race in university admissions, and with similar bans anticipated elsewhere, those concerns have become central to the searing national debate over race relations.

In the past few months:

*The Texas Legislature has ordered the University of Texas system to accept all students who graduate in the top 10 percent of their class irrespective of their S.A.T. scores.

The New York Times, November 8, 1997

*The Mexican-American Legal Defense and Educational Fund has filed a lawsuit against the State of Texas, saying that its high school graduation examination, on which black and Mexican-American students fail at a much higher rate than non-Hispanic whites, is discriminatory.

*The University of California has set up a commission to consider whether to drop or reduce the importance of S.A.T.'s and is increasing its budget to reach out to members of minorities.

*The American Bar Association and the Law School Admission Council have begun a study intended to find ways to reduce reliance on the Law School Admission Test (L.S.A.T.) across the country.

*The Educational Testing Service of Princeton, N.J., which administers many of the country's standardized tests, has grown defensive. It issued a lengthy statement warning against overreliance on the tests and urging that many measures of merit be simultaneously used. "Equating scores with merit," it said, "supports a mythology that is not consistent with the reality of data."

The Scores Adding Meanings To the Numbers

The issue of race and merit is freighted with emotional and political baggage, as was made clear when Richard J. Herrnstein and Charles Murray published "The Bell Curve" (The Free Press, 1994), a best seller asserting that the likeliest explanation for the gap in scores is genetic.

Most of the discussion since then has been an effort to discredit the book's explanation -- widely criticized as racist -- in favor of socioeconomic, historic, psychological and cultural ones. The legal and popular attacks on affirmative action have only added to the sense of urgency on the topic in the scholarly literature.

American Psychologist, the premier journal in its field, published by the American Psychological Association, has dealt with aspects of it in nearly every issue of the past half year, with titles like "Schooling, Intelligence and Income" and "A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance."

Change magazine, largely read by administrators in higher education, devoted seven pages in its March/April 1997 issue to the article "Standardized Testing: Meritocracy's Crooked Yardstick," and The Chronicle of Higher Education, a weekly publication, has been running frequent news and opinion pieces on the subject.

The gap in scores between non-Hispanic white students and black and Hispanic students tracks across all tests, from I.Q. to achievement tests. It narrowed in the 1970's and 80's but has remained steady in the past decade.

The Journal of Blacks in Higher Education, arguing that "African Americans are struggling to overcome 200 years of white supremacy and educational segregation" and therefore need affirmative action to progress, gave over part of its most recent issue to a comparison between white and black scores on the S.A.T.'s, A.C.T.'s, L.S.A.T.'s and Medical College Admission Test, or M.C.A.T.'s. The article sought to show that a reliance on such scores would prove

The New York Times, November 8, 1997

devastating to blacks.

Among the data cited were that the median combined M.C.A.T. for whites rejected for admission to medical schools nationwide in 1996 -- 25.2 out of 30 -- was significantly higher than the median M.C.A.T. score of blacks -- 23.5 -- who were admitted.

In addition, the article pointed out that while blacks make up 10 percent of the more than 1.1 million high school seniors who took the S.A.T., they constituted only 1 percent to 2 percent of those scoring in the range required by many of the nation's elite universities. Only 659 of the 110,000 black college-bound seniors who took the S.A.T. scored above 700 out of a possible 800 on the math part, and only 900 scored above 700 on the verbal section. Nationally, 62,517 students scored above 700 on the math part and 52,835 scored above it on the verbal part.

The gap, the study argued, means little about the potential for blacks' achievement, and the authors cited an arresting example from history. In 1951, Martin Luther King Jr. took the Graduate Record Exam for admission to a doctoral program at Boston University. The verbal aptitude score of a man who is now viewed as among the nation's greatest orators ever was in the third quartile, or below average. His quantitative score was in the bottom 10 percent, and he was in the bottom quarter for tests in physics, chemistry, biology, social studies and the fine arts.

The journal said that if tests were used as the main measure of potential by admissions committees at the nation's top colleges and universities, "black enrollments at these institutions will drop by at least one half and in many cases by as much as 80 percent."

A study published by New York University Law Review in April makes a similar point for law schools. It concluded that if they were to apply to blacks a formula for admissions based on L.S.A.T. score plus grade point average typically used as a cutoff for whites, the percentage of black applicants admitted across the country would fall to about 3 percent from the current 26 percent.

Most universities use a combination of test score and grade point average as a threshold for admissions, with the scale generally lower for minorities than for whites. Those who qualify in each group are then examined for other factors, like special talents and unusual backgrounds.

The Center for Individual Rights in Washington has recently sued the University of Michigan on behalf of white students who said efforts to increase campus diversity by admitting black and Hispanic students with lower tests and grades violated the Constitution.

This suit follows a successful similar one against the University of Texas and a referendum in California that ended racial preferences in admissions. Today, all universities in both states are struggling for ways to keep minority students applying and admitted without offering them admissions preferences.

There is a twist to the testing gaps: the standardized tests themselves were designed half a century ago at least partly to reduce the impact of family and background on university admissions. The idea was that not every student was

The New York Times, November 8, 1997

born rich but that any student could study hard and prove scholarly potential.

While certain groups, notably East European Jews and some Asians, have found such tests an entrance ticket into elite institutions, others, mostly African-Americans and those of Hispanic origin, like Puerto Ricans and Mexican-Americans, have not.

Scholars are divided over the reasons for the continuing gaps in scores.

A few, like the authors of "The Bell Curve," argue that some groups are simply better able to learn than others. Indeed, the book said that since "less intelligent" groups were having far more babies than more intelligent ones, the United States faced an unseen peril in an era when intelligence was the key to economic progress.

Other scholars say the tests themselves have a kind of cultural bias detrimental especially to the poor and underprivileged. Questions, they say, refer to things like "regattas" and "esthetics" that are more familiar to certain classes.

Increasingly, scholars are pursuing a third approach, a complex blend of psychology and culture. They say that pure socioeconomic arguments do not suffice and suspect that the answers lie in nuanced group dynamics.

"It is clear that socioeconomic status will not substitute for race in these data," said Linda F. Wightman, author of the law school study and an associate professor in the department of educational research methodology at the University of North Carolina at Greensboro.

"Within any ethnic group," Ms. Wightman said, "as the socio-economic status goes down, so do the scores, but within the same socio-economic status, there are big differences between groups."

The Results Trouble Assessing Ability to Achieve

Wendy M. Williams and Stephen J. Ceci of the Department of Human Development at Cornell University published an article in the November 1997 issue of American Psychologist entitled "Are Americans Becoming More or Less Alike?" in which they concluded that although the black-white gap had hardly gone away, it had decreased.

They referred to pioneering work done by the New Zealand scholar James Flynn, who has found that for the past 65 years I.Q. scores have been increasing in every country where they have been measured and that I.Q. scores of black Americans are about where white ones were two generations ago.

This suggests, Professor Williams said, that there is much greater malleability of such tests than previously believed and that I.Q. tests, like S.A.T.'s, are open to unforeseen influences like, probably, the sophistication or urban nature of the society in which one lives.

Support was lent to that view by a study presented in August by researchers at Washington University in St. Louis. They found that comparing I.Q. test scores of blacks and whites in their last year of high school and again at the

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end of college showed that blacks improved their scores more than four times as much as whites, cutting the I.Q. gap in half.

Professor Williams, like Robert J. Sternberg at Yale University, argues that current standardized tests measure a specific, static kind of intelligence when there are, in fact, several different kinds of intelligence.

Professor Sternberg has created a model of a three-pronged intelligence, analytical, creative and practical, and says that when students take the intelligence tests he designed, high scorers are more ethnically and racially diverse.

A different and equally intriguing study was carried out by Claude Steele of Stanford University, suggesting that blacks, like women, absorb negative self-images from the environment, driving down their scores on standardized tests.

As reported in American Psychologist in June, Professor Steele found that when blacks taking a test were told that such tests showed no distinction in white-black scores, they did as well as the white test-takers. But when they were told nothing or had to tick off their race on a form before starting, their scores were lower than those of whites. Similar gaps emerged for women.

"Blacks in America are like people on thin ice," Professor Steele said in a telephone interview. "Any little creak means a lot. We can manipulate the environment to make it more or less trustworthy for them."

All of these studies arrive at a time when those mistrustful of standardized tests have begun accumulating a critical mass of data suggesting that the tests are less predictive of academic or professional success or both than many had believed.

A study of doctors trained at the medical school at the University of California at Davis from 1968 to 1987 found that those with lower scores and grades because of race or unusual background went on to careers indistinguishable from those admitted on academic merit alone.

Professor Lightman's study of law school admissions found that 73 percent of the black students who would not have been admitted under a pure scores-plus-grades formula went on to graduate and pass their bar exams. This is lower than the white rate of 90 percent passing but is impressively high, nonetheless.

A recent unpublished dissertation at the Harvard Graduate School of Education contends that of students admitted in three classes in the 1950's, 60's and 70's, those with lower S.A.T. scores and more blue-collar backgrounds ended up more successful, as measured by income, community involvement and professional satisfaction, said Marlyn McGrath Lewis, director of admissions for Harvard and Radcliffe Colleges.

And Professors Williams and Sternberg jointly published a study in American Psychologist in June showing that the psychology Graduate Record Examination was of limited use in predicting success as a psychology graduate student, correlating mildly with first-year grades but almost nothing else.

The New York Times, November 8, 1997

The Future
Perpetual Search For Perfect Test

The gathering data along with the gathering storm over affirmative action have produced, for the first time, a cross-disciplinary movement to take a hard look at the role of the tests, up until now limited largely to advocacy groups like Fairtest in Cambridge, Mass.

The use of tests to determine who gets a National Science Foundation scholarship and the use of P.S.A.T.'s to determine semifinalists in National Merit Scholarships have therefore come under greater attack.

Christopher F. Edley Jr., a professor at Harvard Law School, is planning a seminar later this month at Harvard to deal with the topic in the hope of coming up with recommendations for the nation's universities.

"Given the weak predictive ability of the tests," Professor Edley said, "it is reasonable to worry that the public has seriously misunderstood the proper role of these tests in the selection process.

"The challenge for higher education leaders is to understand that these simple grids and indices are a bad way to think about merit. And as pressure mounts to dismantle affirmative action, there will be increased pressure to abuse these tests."

Some 284 colleges, like Bates College in Maine, have chosen to stop requiring test scores from their applicants.

William Hiss, a vice president of Bates, said that internal college data showed that those who did not submit their scores but were admitted got 160 points lower than those who did submit their scores. Yet, the two groups show no difference either in grades or graduation rates.

The lower scorers, Mr. Hiss said, include not only minority students but also whites from working-class backgrounds, students who grow up speaking another language at home, more women than men, and those with what he called "spike talents," those who are excellent musicians or set designers or athletes.

Bates's no-test policy had helped double its minority representation, Mr. Hiss said.

Still, most colleges and universities see no reason to abandon the tests, saying they must simply keep them in perspective. The tests may be weak predictors of performance but are still among the best in a country with widely varying academic standards in high school.

For the moment, then, the main impact of the discussion seems to be to push admissions officers to search for broader measures of merit and potential. The problem is that doing so is expensive and often laborious.

But Robert M. Berdahl, chancellor of the University of California at Berkeley, said such steps were necessary, adding: "We're on the verge of a major debate over the validity of these tests because the mood of the country is to say that affirmative action has run its course. Yet we must continue to offer opportunities to those denied them in the past. We're struggling here with an

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issue that is at the very heart of American society and we cannot let this one go."

GRAPHIC: Chart: "VERBATIM: A Better I.Q. Test?"

Robert J. Sternberg of Yale University argues that there are three kinds of intelligence -- analytical, practical and creative -- and that most I.Q. tests measure only the first. On his tests, black and Hispanic students do relatively better than they do on traditional I.Q. tests.

These are sample questions from his test for high school seniors.

PRACTICAL

1. Think of a problem that you are currently experiencing in real life. Briefly describe the problem, including how long it has been present and who else is involved (if anyone). Then describe three different practical things you could do to try to solve the problem.

(Students are given up to 15 minutes and up to 2 pages.)

2. Choose the answer that provides the best solution, given the specific situation and desired outcome.

John's family moved to Iowa from Arizona during his junior year in high school. He enrolled as a new student in the local high school two months ago but still has not made friends and feels bored and lonely. One of his favorite activities is writing stories. What is likely to be the most effective solution to this problem?

- A. Volunteer to work on the school newspaper staff.
- B. Spend more time at home writing columns for the school
- C. Try to convince his parents to move back to Arizona.
- D. Invite a friend from Arizona to visit during Christmas break.

Each question asks you to use information about everyday things. Read each question carefully and choose the best answer.

Mike wants to buy two seats together and is told there are pairs of seats available only in Rows 8, 12, 49, and 95-100. Which of the following is not one of his choices for the total price of the two tickets?

Chart shows seat prices, by row

- A. \$10.
- B. \$20.
- C. \$30.
- D. \$40.

CREATIVE

1. Suppose you are the student representative to a committee that has the power and the money to reform your school system. Describe your ideal school system, including buildings, teachers, curriculum, and any other aspects you feel are important.

(Students are given up to 15 minutes and up to 2 pages.)

2. Each question has a Pretend statement. You must suppose that this statement is true. Decide which word goes with the third underlined word in the same way

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that the first two underlined words go together.

Colors are audible.

flavor is to tongue as shade is to

- A. ear.
- B. light.
- C. sound.
- D. hue.

3. First, read how the operation is defined. Then, decide what is the correct answer to the question.

There is a new mathematical operation called flix.

It is defined as follows:

$A \text{ flix } B = A + B$, if $A > B$
 but $A \text{ flix } B = A \times B$, if $A < B$
 and $A \text{ flix } B = A / B$, if $A = B$

How much is 4 flix 7?

- A. 28.
- B. 11.
- C. 3.
- D. -11.

ANSWERS. Practical: 2,A. 3,B. Creative: 2,A. 3,A.

(Source: Robert J. Sternberg, Yale University)(pg. A12)

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October 26, 1997, Sunday, HOME FINAL EDITION

SECTION: EDITORIALS; Editorials: Pg. 2J

LENGTH: 674 words

HEADLINE: Beyond Hopwood;
Texas schools consider new approaches

BODY:

The Texas Higher Education Coalition faces an important, albeit daunting task. The group of university chancellors and other Texas leaders announced Wednesday that it will explore how the number of minority students entering Texas colleges can be expanded. That's even more crucial now that the 1996 Hopwood vs. State of Texas ruling and Texas Attorney General Dan Morales' interpretation of that decision have derailed affirmative action programs at Texas colleges.

The twin rulings have had a particularly disastrous effect on the number of minority students entering law and medical schools in Texas. University of Texas Southwestern Medical Center President Dr. Kern Wildenthal noted at an affirmative action symposium Monday night that black student enrollment at UT Southwestern dropped about 90 percent this year. If the decline continues, there will be fewer African-American doctors, who traditionally have been more willing to practice in minority areas.

That's just one more reason the state must keep searching for ways to reverse the alarming decline in minority college students in Texas. A moral imperative also exists: A state that soon will have a dominant black and Hispanic population cannot see only large numbers of Anglo children graduate from college.

Fortunately, the chancellors' group is not the only attempt to deal with this problem.

Texas legislators, for example, passed a plan this year that grants high school graduates finishing in the top 10 percent of their classes automatic admission to Texas colleges. Approximately 17,000-18,000 Texas students will qualify for 1998 admissions under this plan, including many minority students from large urban districts.

Money, however, remains a problem. State universities received some funds to help enroll top graduates. But the amount was limited and some high-ranked minority students still will be left out. Texas, after all, can no longer offer race-based scholarships.

Several other alternatives exist that bear supporting:

. Some university leaders have been discussing ways to launch a private foundation to grant scholarships to minority students. This idea sounds innovative, although any new foundation must meet precise legal standards. If done correctly, a new foundation could help both undergraduate and graduate

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minority students. Texas business leaders concerned about the future of Texas' work force should participate in this discussion, too.

. Some Texas universities and graduate schools also are looking at more than just test scores in granting admission. The University of Houston Law School, for example, granted admission to about 70 percent of its 1997 applicants after considering items like community service and socioeconomic background. Test scores and grade point averages were secondary considerations with that group.

Notably, the law school has kept its minority student enrollment steady.

. The University of Texas at Austin and Texas A&M University also have joined together to launch outreach centers around the state. The centers already have allowed the state's two most prestigious public schools to encourage secondary school students to think about attending college. These and other colleges should broaden their reach around Texas, especially among high schools and middle schools with dominant minority populations.

. Finally, some private universities have plowed ahead, believing that the Hopwood and Morales rulings do not affect their operations. St. Mary's University School of Law, for instance, still considers race as a factor in judging an applicant. Perhaps other private law schools, like those at Southern Methodist University and Baylor University, should reconsider their decisions to ban race from entrance considerations.

These efforts are evolutionary, of course. Texans should hope that the chancellors' group will add considerable heft to the post-Hopwood discussion. Otherwise, the state may fail to equip a large part of its population for the future.

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OMB alternative to the proposed early intervention strategy

The following is an alternative to the proposed early intervention strategy to the Fattah 21st Century Scholars bill. This alternative strategy has three parts: a national campaign, partnerships for Pell institutions, and supplemental partnership assistance through existing or new programs.

National Campaign

The national campaign effort could follow the strategies outlined in the draft POTUS memo, with an exception: the effort would not include a "promise" of a dollar-specified amount of financial assistance to be available to each student. OMB does not believe that a dollar-figure federal promise of student aid would be a particularly effective means of improving performance of low-income and minority students. OMB also has difficulty with the proposal since it would attempt to place a binding obligation on future Administrations and Congresses to provide a specified level of student support when, in fact, no law can really bind a future Congress. Further, by linking this promise only to Pell Grants and loans (really loans) it immediately raises doubts about the Administration's commitment to new tax benefits.

Pell Partnerships

OMB proposes to require all institutions of higher education in the Pell Grant program to form partnerships with one or more schools/school systems. The rationale driving this proposal is threefold: (1) since institutional partnerships have positive effects on students and schools, we should therefore push all IHEs to undertake some minimal partnership effort; (2) because IHEs benefit from the Pell Grant program in attracting and retaining low-income students, it would be appropriate to see that all institutions make at least a minimal effort to help ensure that the pool of Pell recipients are prepared to succeed *before* entering college (so as to help maximize the federal Pell investment); and, (3) because Pell helps recruit and retain low-income students it makes policy sense to piggy-back onto the program any minority enrollment and retention initiative.

Supplemental Partnerships Assistance

Supplemental partnership assistance (focused on student support services) could be funded in one of two ways -- either through existing TRIO programs or a new early intervention program. OMB prefers that this be accomplished through the existing TRIO programs. Establishing a new program further compartmentalizes federal assistance that is dedicated to assisting needy students. Since the services offered through a new program would be very similar to those provided through TRIO programs like Upward Bound and Talent Search, the usefulness and effectiveness of existing TRIO efforts could be called into question. Part of Upward Bound is already dedicated to a math/science initiative, so precedent exists for establishing sub-parts within the TRIO programs. The statute appears flexible enough to allow for innovations in program design (in this case universal coverage with less intensive services than Upward Bound but more intensive services than Talent Search).

The political challenge is to hold TRIO grantees harmless, while funding a substantially expanded early intervention strategy, targeted to areas of greatest need, through the programs. This could be accomplished by using any new funding to finance grants which support the early intervention initiative. An alternative is to award some level of priority points in awarding new grants.

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THE THREAT TO DIVERSITY IN LEGAL EDUCATION: AN EMPIRICAL ANALYSIS OF THE CONSEQUENCES OF ABANDONING RACE AS A FACTOR IN LAW SCHOOL ADMISSION DECISIONS

LINDA F. WIGHTMAN*

The use of affirmative action policies in school admissions has been a continuing source of controversy. In the wake of Hopwood, it is unclear if their continued use will even be possible. In an effort to inform the debate, Professor Wightman has engaged in a comprehensive empirical analysis to examine the impact of abandoning considerations of race and ethnicity in the law school admission process. Using data obtained from students who applied to law schools in 1990-1991 and from Fall 1991 first-year law students, she examined the likely effects of an admission policy that relied exclusively on LSAT scores and undergraduate grade-point averages. Countering arguments that affirmative action policies merely reallocate minority students among schools, Professor Wightman's study indicates that such a "numbers only" policy would result in a sharp increase in the number of minority applicants who would be denied access to a legal education, not just at the schools to which they applied, but to any of the law schools included in the study. In striking contrast to the decline in admission rates, Professor Wightman found

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no significant differences in the graduation rates and bar passage rates between those minority students who would have been accepted to law schools and those who would not. Thus a "numbers only" policy would deny a legal education to many minority applicants who were fully capable of the rigors of legal education and of entering the legal profession. Professor Wightman also examined whether any of several factors, such as socioeconomic status, could serve as an effective proxy for race and ethnicity in order to achieve a diverse student body. None of the factors she studied indicated satisfactory results. In short, Professor Wightman's study shows that affirmative action policies are likely a necessary prerequisite to maintaining a diverse yet capable law school student body.

INTRODUCTION

Questions about what role, if any, race should play in a variety of decisions ranging from awarding government contracts to offering admission to undergraduate, graduate, or professional school programs have attracted considerable public attention and debate in recent years.¹ This study focuses on empirical data related to only one of those questions—the role of race as a factor in the law school admission process. In order to bring forward current data and statistical and psychometric models that can inform the discussion, this study examines, first, statistical evidence that law school admission practices provide preference to applicants of color and, second, the potential effect on the ethnic makeup of legal education today if those practices are abandoned. The results reported here sometimes support—and other times refute—assertions about the applicant pool, the Law School Admission Test (LSAT), and the admission process that frequently are incorporated into the competing legal and social arguments put forth during discussion of affirmative action issues.

The debate over the role of affirmative action in the law school admission process is closely linked to the difference in opinions about the role of the two most commonly used quantitative predictors of future academic performance—undergraduate grade-point averages (UGPAs) and scores on the LSAT, a standardized multiple-choice test

of acquired reading and reasoning skills.² The disagreement is fueled, in part, by a perceived tension between two approaches to admissions. On the one hand, there is support for achieving diversity in student enrollment through consideration of the race of applicants as one of the numerous factors evaluated. On the other, there is support for limiting consideration strictly to competitive indicia of an applicant's individual academic achievement by relying heavily on quantifiable factors such as LSAT score and UGPA.³

In the world of high stakes, competitive law school admissions, the LSAT score and UGPA provide readily available, quantifiable, and apparently objective aids to admission decisionmaking. Partly at issue in the debate is the proper role of grades and test scores in the admission process.⁴ Should their role be limited to providing evidence that the applicant is likely able to meet the academic rigors of the legal education program to which she is applying? Or should comparatively higher test scores and grades alone warrant being preferred in all cases for a seat in a particular law school over all applicants with lower test scores or grades? Data are available to inform this debate, and this study analyzes and summarizes some of those data.

Part I examines data from law school applicants and matriculated law school students to empirically evaluate several assertions about affirmative action practices and outcomes in legal education. First, the analyses presented in this study address the question of whether aggressive affirmative action admission practices are still necessary in legal education. Results from data analyses are presented to demonstrate both the extent to which affirmative action appears to play a role in law school admission decisions and the overall consequences, in terms of ethnic makeup of law school classes, of abandoning consideration of race in admission decisionmaking. In Part II, the appropriate role for numerical indicators is scrutinized. Data about the validity of using the quantitative measures for law school admission in general, and for minority applicants in particular, are presented and discussed. In addition, data about law school graduation and bar passage for law students who might not have gained admission absent

² See, e.g., James Q. Wilson, *Sins of Admission*, *The New Republic*, July 8, 1996, at 12-16 (discussing affirmative action in undergraduate and graduate admissions). See generally Paul M. Sniderman et al., *The New Racism*, 35 *Am. J. Pol. Sci.* 423 (1991) (discussing tension between affirmative action and negative images of blacks as lazy and irresponsible).

³ See Leigh H. Taylor, *A Faulty and Narrow Understanding of Merit and Qualification in University Admissions*, *Chron. Higher Educ.*, Sept. 15, 1995, at B3 (criticizing overreliance on standardized test scores and grades in law school admission process and emphasizing importance of nonnumerical factors).

⁴ See *id.*

¹ See, e.g., Stephen L. Carter, *Reflections of an Affirmative Action Baby* (1991) (discussing case for and against affirmative action from author's perspective as black professional in era of affirmative action); Cornel West, *Race Matters* 63-67 (1993) (supporting affirmative action as necessary to redistributive measures in America); Stephanie M. Wildman, *The Dream of Diversity and the Cycle of Exclusion, in Privilege Revealed: How Invisible Preference Undermines America* 103, 103-37 (1996) (discussing obstacles to attainment of nondiscrimination in area of law school faculty hiring).

some consideration of race in the admission process are compared with similar data for students who would have been admitted strictly on numerical indicators. The first part of the discussion addresses the question of appropriate use from the perspective of whether the LSAT score and UGPA are valid for the purpose for which they are intended. The second part focusses on the ability of those who would be systematically excluded from legal education by these two factors to complete law school successfully and gain entry to the profession. Part III of this study then examines several nonnumerical factors to evaluate whether they might be useful alternatives to considerations of race in order to achieve an ethnically diverse law school class.

I

THE ROLE OF AFFIRMATIVE ACTION IN LAW SCHOOL ADMISSION DECISIONS

A. Methodologies

1. The Samples

Two samples were used in this study. The first includes applicants to 173 law schools approved by the American Bar Association (ABA).⁵ This study examined application and decision data for 90,335 applicants from the 1990-1991 application year, each of whom completed LSDAS,⁶ had reports sent to one or more law schools, and had at least one admission decision reported by a law school.⁷ These 90,335 applicants generated 416,005 applications to multiple schools. More than half of these applicants (57%) received an offer of admission to at least one law school.

The second sample includes Fall 1991 first-year students, from 163 ABA-approved law schools located in the United States, who

⁵ Although the ABA approves law schools located in Puerto Rico, those schools were excluded from this study.

⁶ The Law School Data Assembly Service (LSDAS) is offered by the Law School Admission Council (LSAC) to organize and summarize the biographic and academic information of law school applicants. Almost all LSAC-member law schools in the United States require applicants to subscribe to this service. Through LSDAS, law schools are provided with a report containing standardized summaries of academic work, copies of college transcripts, LSAT scores, and writing samples.

⁷ More than 99,000 applicants are reported for the 1990-1991 application year in Law School Admission Council, National Statistical Report, 1986-87 through 1990-91, at 18 (1992). The smaller number of applicants included in this study results primarily from the exclusion of applicants for whom LSAT score, UGPA, or both were missing. There were approximately 6600 applicants with missing data. In addition, applicants who applied only to law schools located in Puerto Rico were also excluded. A final source of the discrepancy is some incomplete reporting of decision data by individual law schools. With regard to the last source, the amount of missing data is too small to affect the aggregate statistical findings based on data from so large a sample.

agreed to participate in the *LSAC Bar Passage Study*.⁸ The overwhelming majority of students who entered law school in Fall 1991 are found in the 1990-1991 applicant pool.⁹ Thus, the second sample is essentially a subset of the first sample. Indeed, the 1990-1991 applicants were selected for analyses in this study primarily because the *LSAC Bar Passage Study* provides extensive data about the Fall 1991 entering class, including socioeconomic status (SES) data, law school graduation data, and bar examination data.¹⁰ These students represent approximately 70% of the Fall 1991 first-year students at ABA-approved law schools in the United States (excluding Puerto Rico and Hawaii), and by every indication are an unbiased representative sample of that entering class.¹¹

2. Developing a Model

In order to test the several assertions about affirmative action practices and outcomes, a model was built of an admission process that relies exclusively on LSAT scores and/or UGPAs.¹² Two different

⁸ The *LSAC Bar Passage Study* is a national longitudinal study on legal education and entry into the profession that is being sponsored by the Law School Admission Council. The study has followed a sample from the class that entered law school in the fall of 1991 through graduation and entry to the bar. Entering credentials; extensive background data gathered at the time they entered law school (including information about their goals, aspirations, self-concepts, and perceptions, as well as their extracurricular activities, personal responsibilities, and employment aspirations); law school performance data; and bar examination data are available for the sample, which includes approximately 70% of the Fall 1991 entering class. The students from the sample remain in the active bar passage study file for three years after graduation (six bar examination administrations) or until they pass a bar exam, whichever comes first. See generally Linda F. Wightman, Law Sch. Admission Council, *LSAC Bar Passage Study: Study Design* (Mar. 1991) (providing basic description of original design; note, however, that study has changed considerably from this design). The study is ongoing and will produce a series of reports. For the first two reports published using this data, see *infra* notes 11, 51.

⁹ A small and nonsignificant number of first-year students did not go through the LSDAS process for some reason or went through it at an earlier time and deferred their date of entry until Fall 1991.

¹⁰ Participants in the *LSAC Bar Passage Study* agreed to the release of their law school performance data and their bar examination performance data for research purposes.

¹¹ See Linda F. Wightman, *Legal Education at the Close of the Twentieth Century: Descriptions and Analyses of Students, Financing, and Professional Expectations and Attitudes* 18 n.11 (Law Sch. Admission Council Research Report Series 1995) (noting that data in this report can be generalized to entire Fall 1991 entering class, due to large participation rate among law schools and wide distribution among clusters).

¹² The statistical models used in this study do not suggest that law schools rely exclusively and solely on LSAT scores and UGPAs (or a combination of these measures) in admitting either white students or students of color. In fact, as will be discussed later, the results demonstrate that in the admission of law students, law schools do consider factors that are not numeric and that, therefore, cannot be accounted for by the models developed for this study. The purpose of the models is to evaluate differences in admission practices between and among applicants from selected ethnic groups, as well as to estimate the im-

methodological approaches were utilized to build the model. One method, the Logistic Regression Model, mimicked the relationship between the two predictor variables and the actual admission decision uniquely for each school by using each school's applicant and admission decision data. Thus, 173 regression models were developed, one for each of the 173 schools included in the study. The second method, called the Law School Grid Model, collapsed applicant and decision data across all schools to obtain a more conservative estimate of the impact of an admission process that does not take race into consideration. This second method was also used to test the claim that eliminating affirmative action admission practices would not reduce the number of law students of color overall, but rather would reallocate them to less selective law schools.¹³

a. *The Logistic Regression Model.* For the first method, logistic regression models were employed. The logistic procedure used in this study fits linear logistic regression models for binary data by the method of maximum likelihood for the purposes of (1) investigating the relationship between the admission decision (translated to a binary response of admitted or not admitted)¹⁴ and the LSAT score and UGPA (the explanatory variables) and (2) determining whether the same admission model could be used to predict admission decisions for applicants of color as accurately as it predicts for white applicants. In order to test for comparable prediction accuracy among applicants of color, the logistic regression models predicting admission decisions (admitted/not admitted) from LSAT score alone (model 1), UGPA alone (model 2), and LSAT score and UGPA in combination (LSAT/UGPA-combined) (model 3) were developed separately for each law school using only application and admission data for white applicants to that school.¹⁵

fact of discontinuing consideration of the race of applicants on admission decision outcomes. And, as will be shown, such factors do account for a significant amount of the variance in the admission decisions.

¹³ See Clyde W. Summers, *Preferential Admissions: An Unreal Solution to a Real Problem*, 1970 U. Tol. L. Rev. 377, 384-86 (concluding that preferential admission standards do not increase total number of minority law students, but rather have effect of shifting minority students from law schools whose normal standards they meet to law schools whose normal standards they do not meet).

¹⁴ For a more complete discussion of binary-response model methodology, see generally D.R. Cox & E.J. Snell, *Analysis of Binary Data* (2d ed. 1989).

¹⁵ A probability-of-admission model was produced for each law school using a binary-response model logistic regression procedure. That is, the response variable was allowed to take on only one of two possible values—admitted or not admitted. For the data analyzed in this study, $Y = 1$ if the applicant is admitted and $Y = 2$ if the applicant is not admitted. The linear logistic model has the form:

Before results from these analyses were used to address the questions posed, the fit of each of the three models was evaluated to determine the adequacy of a model based on these variables to predict admission decisions. A likelihood-ratio chi-square test statistic was used to test the joint significance of the predictor variables used in each model separately for each school. Additionally, the overall correlations between the predicted admission decisions based on each logistic regression model and the actual decision were calculated.¹⁶

After it was established that the models fit the observed data reasonably well,¹⁷ the next step was to determine whether applicants with the same LSAT score and UGPA who were members of a different ethnic group had the same probability of admission as did the white applicants upon whom the model was built. This was accomplished by identifying an ethnic group of applicants (e.g., all black applicants) for evaluation. The likelihood that each individual in that group would be admitted to law school was estimated using the logistic function calculated for each law school to which she or he applied. The likelihood estimates were summed to obtain the proportion of the group that would be expected to be admitted based exclusively on LSAT scores and UGPAs. This sum of the probabilities provides an estimate from the model of the proportion of applicants who would be admitted. The estimated proportion can be compared with the proportion of applications in the studied group that actually was admitted. The extent to which the predicted proportion differed from the actual proportion provides information about the prevalence of affirmative action admission practices in legal education. For that reason, the statistic of primary interest is the residual selection rate. The residual selection rate is calculated by subtracting the proportion predicted to be admitted from the proportion actually admitted. If the proportion actually

$$\text{logit}(p) = \log(p/(1-p)) = \alpha + \beta'x$$

where, for the model examined in this study,

x is a vector of LSAT scores for model 1, UGPAs for model 2, and LSAT scores and UGPAs for model 3;

p is the probability that the applicant is admitted given his or her LSAT score and/or UGPA ($\Pr(Y = 1|x)$);

α is the intercept parameter;

β' is the vector of slope parameters.

Using the logit estimate produced by the logistic model described above, the probability of each individual applicant being accepted is calculated as follows:

$$p = e^{\text{logit}(p)} / (1 + e^{\text{logit}(p)}).$$

¹⁶ The correlation coefficient is a measure of the degree of relationship between the predictor variables (e.g., LSAT score and UGPA) and the criterion (e.g., admission decision). A correlation coefficient of 0 indicates no relationship, while a value of ± 1 indicates a perfect positive or negative relationship.

¹⁷ See discussion *infra* Part I.B.1 (Evaluating the Logistic Regression Model).

admitted exceeds the proportion predicted to be admitted, the residual is positive. A statistically significant positive residual for a studied group would suggest affirmative action admission practice for applicants in that group.

The logistic regression procedures described above developed separate regression weights for each school using applicant data for that school, but then summed actual decisions and probabilities across schools to obtain summary data. Many applicants submitted more than one law school application. Those applicants were counted once within each school to which they applied and, thus, more than once in the across-school summary data. These data are appropriate for estimating and analyzing residuals but are inadequate to approximate the actual number of individual students from different ethnic groups who would be admitted to at least one law school by these models. Thus, the final step was to determine whether each individual applicant would have been admitted to the schools to which they applied if only LSAT score and/or UGPA were used to make the admission decision. This was accomplished by first determining the number of admission offers made by each law school in the 1990-1991 application year. Applicants were then ranked in descending order with respect to their probability of admission to each school to which they applied. Within each law school, the applicant whose rank order equaled the number of admission offers made by that law school in 1990-1991 defined the probability value that separated admitted from not admitted applicants. That is, all applicants whose probability met or exceeded that of the defining applicant were identified as predicted to be admitted "on the numbers" and those with a lower probability as predicted not to be admitted "on the numbers." For example, if a school offered admission to 400 applicants, applicants with a probability of admission, based on the school's logistic regression model, equal to or higher than that of the 400th ranked applicant were identified as predicted to be admitted and those with a lower probability as predicted not to be admitted.

As noted previously, three different models (LSAT only, UGPA only, and LSAT/UGPA-combined) were considered. Using different models provided information about the impact on applicants of color of including the LSAT in the numerical models of the admission process given that, on average, the discrepancy between applicants of color and white applicants is larger for LSAT scores than for UGPAs. In fact, frequently the LSAT is seen by applicants of color as the major barrier to admission to law school. For that reason, even though the data demonstrate that the LSAT/UGPA-combined model produced the most accurate prediction of admission decisions, a model

that relied only on UGPA for admission decisions was also evaluated. That is, analyses were undertaken to determine whether eliminating LSAT scores from consideration and relying only on UGPA (the UGPA-only model) would eliminate the impact on racial diversity among admitted applicants.

b. The Law School Grid Model. The second method to model the admission process uses a mathematically and conceptually simpler model that collapses the data nationally. Again, LSAT score and UGPA were the only factors included in the model. The model was built under the assumption that if race were not a factor in the decisions, patterns of admission decisions observed for white applicants would also hold for applicants of color.¹⁸ The first step was to represent the LSAT scores and UGPAs of the 1990-1991 white applicants in a two-way table similar to the admission grids provided by many law schools in *The Official Guide to U.S. Law Schools*.¹⁹ For the data reported in this study, UGPAs were divided into nine groups and LSAT scores into eight groups. For example, LSAT scores greater than or equal to 45²⁰ defined one LSAT score group; scores from 40 to 44 inclusive, the second group. This produced an LSAT/UGPA grid with seventy-two cells. To build the model, the number of white applicants in each LSAT/UGPA cell who were admitted to at least one of any of the law schools included in the study was summed. The probability of gaining admission for applicants in a given LSAT/UGPA range, as defined by each cell, was estimated by dividing the number of admitted white applicants in the cell by the total number of white applicants with scores and grades in the range of that cell. Next, the number of applicants who fell into each LSAT/UGPA cell was counted separately for each nonwhite group, resulting in a separate nine-by-eight grid of applicants for each group. The final step was to multiply each cell of the nonwhite-applicant grids by the proportion observed in the corresponding cell of the white-applicant grid. Summing these products produced an alternative estimate of the consequences of an admission model that depends on the LSAT score and UGPA, independent of the race of the applicants. The reasonableness of the

¹⁸ The second method used in this study is similar to and based on one used by Frank Evans. See Franklin R. Evans, Applications and Admissions to ABA Accredited Law Schools: An Analysis of National Data for the Class Entering in the Fall of 1976, in Reports of LSAC Sponsored Research: Volume III, 1975-1977, at 551, 579-85 (Law Sch. Admission Council Report No. LSAC-77-1, 1977).

¹⁹ See, e.g., Law Sch. Admission Council, *The Official Guide to U.S. Law Schools* 97, 351 (1997 ed. 1996) [hereinafter *Official Guide*].

²⁰ The LSAT scores used in this study were reported on a scale that ranged from 10 to 48. That scale was set in 1982 to a mean of 30 and a standard deviation of 10.

assumptions underlying this model is discussed later in this Article when the results from these analyses are presented.²¹

B. Results

The first questions of interest are (1) to what extent does consideration of race impact law school admission decisions, and (2) what would be the consequences, in terms of ethnic diversity in legal education, of abandoning the use of race as a factor. Results from analyses of a within-school logistic regression admission model are provided as one method to evaluate relevant data.²² Sound statistical practice dictates that the adequacy of a proposed model be evaluated before the consequences of applying it to the questions of interest are examined.

1. Evaluating the Logistic Regression Model

The first evaluation task is to determine how well the data fit the model. Results presented in this section show that the data used in this study fit the model very well when LSAT score and UGPA are used in combination. They fit less well when UGPA is used alone, and they do not fit at all when LSAT score is used alone.

A model that uses LSAT score and/or UGPA to predict admission decisions is reasonable only if there is a relationship between each of the variables and actual admission decisions. For the data from white applicants, the correlation between LSAT scores and actual admission decisions is .33;²³ the correlation between UGPAs and actual admission decisions is .28. Correlations of data for white applicants are relevant because those are the data that were used to build the models.²⁴ Comparison with other admission-test data helps put these correlations in perspective. In a study to evaluate admission de-

cisions for undergraduate schools, Warren Willingham reports a correlation of .37 between Scholastic Aptitude Test (SAT) score and undergraduate admission decisions, and .36 between high school grade-point average and undergraduate admission decisions.²⁵ These data suggest a slightly stronger relationship between high school grades and undergraduate admission decisions than between college grades and law school admission decisions, although the lower correlation might be a consequence of more severe restriction of range in the UGPAs of law school applicants.²⁶ Regardless, the law school data support the contention that the LSAT score and UGPA are useful measures to include in a model designed to predict admission decisions. Additionally, for the LSAT/UGPA-combined model, the likelihood-ratio chi-square test statistics were significant ($p < .001$) for each individual school, attesting to the joint significance of LSAT score and UGPA to predict admission decisions.

The final statistic used to evaluate the model is the correlation between the predicted and actual admission decisions made by the school. For the LSAT/UGPA-combined model, the correlation for white students is .78. This correlation is very high, indicating that these two variables account for approximately 60% of the variance in admission decisions for white students. Another way to think about these correlations is that the higher the composite of LSAT and UGPA, the greater the probability of gaining admission.

Neither of the other models—LSAT-only and UGPA-only—fit the data as well as the LSAT/UGPA-combined model. The correlation between decisions predicted by the LSAT-only model and actual decisions is .07 for white applicants, and the model diagnostics confirm a lack of fit.²⁷ For the UGPA-only model, the correlation for white applicants is .49, suggesting a far better fit than the LSAT-only

²¹ See *infra* Part I.B.5 (countering assumption that students of color would, in fact, attend any school to which they were admitted).

²² See *supra* notes 14-17 and accompanying text (describing logistic regression models developed for this study).

²³ Note that while the magnitudes of these correlation coefficients demonstrate the reasonableness of using them in a model of law school admission practices, they do not determine which of these variables will fit the logistic regression model better, nor that either one alone or in combination will provide a satisfactory model fit. This is a consequence of the fundamental differences between a logistic regression model and a linear least-squares regression model. In the linear model, the regression coefficients are those that produce the smallest sums of squared distances between the observed and the predicted values of the dependent variable. In contrast, the logistic regression model is nonlinear. Therefore, an iterative algorithm is used to identify the coefficients that would make the actual admission decisions the most probable or "likely."

²⁴ The correlation between actual admission decision and LSAT score and between actual decision and UGPA differs slightly within other ethnic groups, as follows. The differences are not of sufficient magnitude or in a direction to suggest that these variables are not appropriate to include in the admission decision model.

TABLE N1
CORRELATION OF ACTUAL ADMISSION DECISION WITH LSAT AND UGPA

Ethnic Group	LSAT Score	UGPA
American Indian	0.28	0.18
Asian American	0.29	0.25
Black	0.45	0.30
Hispanic	0.34	0.29
Mexican American	0.45	0.34
Puerto Rican	0.34	0.30
White	0.33	0.28

²⁵ See Warren W. Willingham, *Admissions Decisions*, in *Testing Handicapped People* 71, 71-81 (Warren W. Willingham et al. eds., 1988).

²⁶ See *infra* text accompanying notes 73-74 (explanation of restriction of range).

²⁷ The likelihood-ratio chi-square statistic is not significant for any school. Examining the measures of association of predicted probabilities and observed responses reveals that

model, but not nearly so good a fit as the LSAT/UGPA-combined model.

Because the LSAT-only model simply does not fit the data, predicted admission decisions based on that model are not estimated and that model is not considered in any further analyses. Additionally, because the fit of the LSAT/UGPA-combined model is so superior to the fit of the UGPA-only model, results from the majority of the analyses reported in this study include only the estimates provided by the LSAT/UGPA-combined model.

2. *Evaluating the Prevalence of Affirmative Action Admission Practices in Legal Education*

The 1990-1991 law school application and admission data suggest widespread use of affirmative action admission practices in legal education. Results from analyses of data that support this conclusion are presented next.

The first goal of the logistic regression analyses was to determine whether the admission model developed from data from white applicants fit the data from applicants of color equally well. If affirmative action admission practices are prevalent, the proportion of actual admission offers would be expected to exceed the proportion predicted by the model, and the data for applicants of color would not fit the model as well. One way to evaluate the data is to compare the correlation between predicted and actual admission decisions for applicants of color when decisions are predicted from the models developed using data from white applicants. The correlations are not nearly as high for any group of nonwhite applicants as they are for white applicants. When the LSAT/UGPA-combined model is used to predict, the correlations range from a low of .34 for black applicants to a high of .67 for Asian American applicants. These substantially lower correlations support the assertion that factors other than LSAT and UGPA play a more important role in admission decisions for applicants of color than for white applicants. The correlation between actual and predicted admission decisions is also higher for white applicants than for any group other than Asian Americans when the UGPA-only model is used.²⁸

The residual selection rate is another important statistic for evaluating the prevalence of affirmative action admission practices in legal

the percentage of concordant pairs is approximately equal to the percentage of discordant pairs consistently across schools.

²⁸ The correlations of actual admission decisions with predicted admission for selected ethnic groups using the combined model and the UGPA-only model are as follows:

education.²⁹ As a statistical consequence of the regression model, the proportion of applications from white applicants that are predicted to be admitted equals the proportion actually admitted. As noted previously, the data reported in Table 1 represent the number of applications, not the number of individual applicants. Thus, individual applicants who made more than one application are counted more than once. If the model fits data from applicants of color equally well, the proportion predicted would be approximately equal to the proportion actually accepted for each of the ethnic application groups. Table 1 shows the proportion of applications predicted to be admitted, the proportion actually admitted, and the residual selection rate for different ethnic groups. These data show that actual admission decisions result in approximately equal proportions of admission offers across ethnic groups. Specifically, approximately 26% of the applications from white applicants result in offers of admission. Among the other groups, offers vary from 24% of the applications from Puerto Rican applicants to 32% of the applications from Mexican American applicants.³⁰ This is in stark contrast to the proportions predicted by the model, under which predicted admission offers to members of various ethnic groups would range from a high of 15% of the applications from Asian Americans to a low of 3% of applications from blacks, compared with 26% of those from whites. The residual selection rate among the applications submitted by nonwhite applicants is positive, large, and statistically significant for every group. The magnitude and direction of the residuals strongly support the claim that law schools

TABLE N2
CORRELATION OF ACTUAL ADMISSION DECISION WITH PREDICTED DECISION

Ethnic Group	LSAT/UGPA-Combined Model	UGPA-Only Model
American Indian	0.49	0.34
Asian American	0.67	0.48
Black	0.34	0.32
Hispanic	0.58	0.45
Mexican American	0.46	0.37
Puerto Rican	0.49	0.41
White	0.78	0.49

²⁹ See *supra* text following note 17 (explanation of residual selection rate).

³⁰ These relatively small proportions partly reflect the multiple applications that are submitted and the practice by many applicants of making application to one or more schools at which their chances of gaining admission are uncertain. See, e.g., Linda F. Wightman, *Analysis of LSAT Performance and Patterns of Application for Male and Female Law School Applicants 45 & tbl.21* (Law Sch. Admission Council Research Report Series No. 94-02, Dec. 1994). As reported later in this study, the proportion of individual applicants receiving at least one offer of admission is substantially larger than the proportion of applications that result in an offer of admission. See *infra* text accompanying notes 40-41 & Table 5 at p. 22.

use different criteria or additional factors or information for making admission decisions about applicants of color than they do for making decisions about white applicants. When LSAT and UGPA are modeled as the only factors used to make decisions, not only do they predict actual decisions far more accurately for white applicants than for applicants of color, but the number of applicants of color predicted to be admitted under the model is statistically significantly lower than the number actually admitted.

TABLE 1
PREDICTED ADMISSION RATES, ACTUAL ADMISSION RATES,
AND RESIDUALS FOR 1990-1991 LAW SCHOOL APPLICANTS
BY ETHNIC GROUP

Ethnic Group	Number of Applications	Proportion* Predicted Admitted	Proportion Actually Admitted	Residual (Actual-Predicted)
American Indian	2,113	0.12	0.30	0.18*
Asian American	23,317	0.15	0.26	0.11*
Black	29,362	0.03	0.26	0.23*
Hispanic	11,320	0.12	0.27	0.15*
Mexican American	5,383	0.09	0.32	0.23*
Puerto Rican	3,078	0.06	0.24	0.18*
White	329,864	0.26	0.26	0

* $p < .001$

*Admission was predicted using the LSAT score and UGPA combined logistic regression model.

3. *The Consequence of Abandoning Consideration of Race as Estimated by the Logistic Regression Models*

The next step in the analyses is to determine the effect of abandoning consideration of race on the number of individual applicants who might be admitted to law school (as opposed to the previous analyses, which were based on the number of applications). The analyses reported in this section show that if admission decisionmakers had used a process modeled by either of the logistic regression models (i.e., the UGPA-only or the LSAT/UGPA-combined models),³¹ the consequence would have been a substantial reduction in the overall number of applicants of color who were offered admission to ABA-approved law schools. Predicted admission decisions were calculated separately for the UGPA-only and for the LSAT/UGPA-combined

³¹ See discussion *supra* notes 14-17 and accompanying text (explaining logistic regression models).

prediction models,³² and the results, comparing the number of applicants who actually were admitted to at least one law school to which he or she applied with the number predicted to be admitted, are presented in this section.

The distribution of actual admission decisions and predicted decisions for individual applicants, based on the two logistic regression models, is shown separately by ethnic group in Table 2. These data count an individual as admitted (or predicted to be admitted) if she or he was admitted (or predicted to be admitted) to at least one law school to which she or he applied. The first column in Table 2 identifies the ethnic group, the second divides the group into two actual-admission-decision groups—accepted or not accepted—and the third divides each actual decision group into two—those predicted by the model to be admitted or not admitted. Although somewhat complex in format, the layout of Table 2 provides an opportunity to examine how many applicants in each ethnic group who were actually accepted to at least one law school were also predicted to have been accepted or not accepted by the UGPA-only and the LSAT/UGPA-combined prediction models. The table provides the same information for applicants who were not actually accepted to any law school.

Overall, the data in Table 2 confirm that the impact of either of the tested models on the ethnic diversity of the admitted students would be devastating. Among the 3435 black applicants who were accepted to at least one law school to which they applied, only 687 would have been accepted if the LSAT/UGPA-combined model had been used as the sole means of making admission decisions. Although the LSAT frequently has been targeted as the primary obstacle to law school admission for students of color, the data in Table 2 show that even if it is eliminated from consideration, only 945 of those black applicants who were offered admission in 1990-1991 would have been offered admission using a UGPA-only selection model. These data also show that an additional 391 black applicants who were not offered admission would have been accepted if a UGPA-only model were used. Ignoring for the moment the issue of whether something in the applicants' records or other application materials eliminated them from consideration despite their academic performance records, these data suggest that even a model that relies only on UGPA as an arbiter of relative merit would result in reducing the number of admitted black applicants to approximately a third of what it was in the

³² The LSAT-only model is not included because analyses show that the data do not fit that model. See *supra* text accompanying note 27 (explaining that results show data fit LSAT/UGPA-combined model, but not LSAT-only model).

TABLE 2
DISTRIBUTION OF 1990-1991 APPLICANTS BY ETHNIC GROUP,
ACTUAL ACCEPTANCE, AND ACCEPTANCE PREDICTED BY
UGPA ALONE, AND LSAT/UGPA-COMBINED LOGISTIC
REGRESSION MODELS

Ethnic Group	Actual Decision	Predicted Decision	Number Predicted by UGPA	Number Predicted by Combined	Actual Number Admitted
American Indian	Accepted	Yes	115	137	302
		No	187	165	
	Not Accepted	Yes	35	16	
Asian American	Accepted	No	152	171	2,312
		Yes	1,199	1,449	
	Not Accepted	No	1,113	863	
Black	Accepted	Yes	277	44	3,435
		No	1,122	1,355	
	Not Accepted	Yes	945	687	
Hispanic	Accepted	No	2,490	2,748	1,351
		Yes	391	24	
	Not Accepted	No	3,257	3,624	
Mexican American	Accepted	Yes	652	667	629
		No	699	684	
	Not Accepted	Yes	150	33	
Puerto Rican	Accepted	No	803	920	324
		Yes	238	252	
	Not Accepted	No	391	377	
White	Accepted	Yes	63	8	42,287
		No	417	472	
	Not Accepted	Yes	127	100	
	Accepted	No	197	224	
		Yes	32	2	
	Not Accepted	No	272	302	
	Accepted	Yes	26,744	35,966	
		No	15,543	6,321	
	Not Accepted	Yes	7,283	4,392	
	Accepted	No	23,172	26,063	
		Yes			
	Not Accepted	No			

1990-1991 application year. Similar patterns are evidenced for each of the other ethnic minority groups, although the impact appears more severe for black applicants than for any other group.

The data for white applicants also provide an interesting insight. These data demonstrate that although one result of affirmative action admission practices might be to offer admission to some applicants of color who have LSAT scores and UGPAs that are lower than those of white applicants who are denied, lower-scoring applicants of color are not the only ones who are given special admission consideration. Specifically, the data in Table 2 show that the number of white applicants who were not admitted, but would have been if decisions were based entirely on numerical indicators, is not so large as the number of white students who were admitted, but would not have been based on LSAT and UGPA alone. For example, the LSAT/UGPA-combined model

identified 4392 white applicants who were not accepted to any school although they were predicted to be admitted based on their LSAT scores and UGPAs alone. But the model also identified 6321 white students who *were* admitted who were predicted not to be admitted to any school.

It is also important to note that in all ethnic groups there were some applicants who were not admitted, but who would have been if the decision were based exclusively on the two quantitative predictors. These data suggest either that some information in these students' files other than academic performance excluded them from admission or that they were not so strong on some additional factors valued by the law schools to which they applied as were students with lower grades and LSAT scores. Thus, the data do not support an assumption that every white student with higher quantitative predictors who was denied admission would necessarily have been admitted but for affirmative action. This conclusion is supported further by the analysis of model fit presented earlier.³³ That is, although the LSAT/UGPA-combined model fits the data very well, there still is a substantial amount of unexplained variance in the model. Information obtained from sources such as misconduct files, letters of recommendation, and personal statements is identified by most law schools as important for consideration in admission decisions. Among many publicly supported schools, state of residence may also be a relevant factor, with in-state residents receiving some preference over out-of-state residents.

Unfortunately, although a substantial number of data elements were available for this study, no additional factors were found among them that improved the model fit (i.e., resulted in more accurate prediction of actual admission decisions). For example, an expanded logistic regression model that included state of residence as a dichotomous variable was tested using data from each of the public law schools to determine the impact of that factor on prediction. When state of residence was added to the model already containing LSAT and UGPA, no improvement in prediction was observed. The correlation between actual and predicted admission decisions was .79 when the state of residency was added to the two-predictor model for public institutions, compared with .78 when only LSAT and UGPA were included. Although no improvement in model fit was found among the data available about the applicants included in this study, the amount of variance still unaccounted for in the two-factor model supports the assertion by the law schools that other factors play a role

³³ See *supra* Part I.B.1 (evaluating how well data fit logistic regression model).

in the admission decision process for all students.³⁴ Future research should attempt to capture and quantify the additional factors that are used.

4. *The Consequence of Abandoning Consideration of Race as Estimated by the Law School Grid Model*

The Law School Grid Model is more conservative, and arguably less realistic in its assumptions,³⁵ than the logistic regression models, and its estimate of the consequence of abandoning consideration of race is less severe than the estimates obtained from either of the logistic regression models. Even so, the results presented in this section show that the estimated number of applicants of color who would have been offered admission to law school based on this model is still substantially lower than the actual number admitted.

One reason for interest in the Law School Grid Model is that it is a simple method to evaluate national law school admission possibilities for applicants of color without regard for the schools to which they actually applied. Determining whether there is any ABA-approved law school to which applicants of color might be admitted

³⁴ Such assertions are commonplace in law school recruiting. Each year, the Law School Admission Council publishes a law school guidebook for applicants. See Official Guide, *supra* note 19 (providing admission profiles of each U.S. LSAC-member school submitted by the schools themselves). In the most recent edition, all but 17 of the 178 schools represented state that some factors other than grades and LSAT are considered in the admission process for some, if not all, applicants. See, e.g., *id.* at 133 (discussing admission policy at Cornell University Law School). Further, those schools that do not make such a statement do not necessarily state that LSAT and grades are the only factors considered—they simply do not address the issue. The discussion by New York University of this issue, while lengthier than most, is typical in spirit:

An applicant's undergraduate record and LSAT, while important, are not the sole determinants for admission. No index or cut-off is used in reviewing applications. An applicant's transcripts are analyzed for breadth and depth of course work, trend in grades, and rank; the competitiveness of the school and major are taken into account, as are special honors and awards. A strong undergraduate record and LSAT score are most important for those applying to law school directly after graduating from college. In all cases, however, other aspects of the application significantly influence the decision. Letters of recommendation, activities, and work experience are reviewed for evidence of significant nonacademic or professional achievement, and for qualities including rigor of thought, maturity, judgment, motivation, leadership, imagination, and social commitment. Factors beyond the undergraduate record are particularly important for older applicants, for international students, for those who have experienced educational or socioeconomic disadvantage, and for those who have racial or ethnic identities that are underrepresented in the student body and legal profession.

Id. at 262-63.

³⁵ See *supra* notes 18-21 and accompanying text (explaining Law School Grid Model); *infra* Part I.B.5 (questioning assumption of this model).

using an LSAT/UGPA-based quantitative admission model provides one conservative approach to evaluating the long-term consequences of an admission process that relies exclusively on competitive evaluation based on quantifiable indicators of individual achievement and, therefore, does not consider the race of the applicant.

A related reason for exploring the Law School Grid Model is to test the proposition that admission programs that take race into account do not necessarily result in a net increase in the total number of minority law students. For example, Professor Clyde Summers suggests that affirmative action admission programs do not increase the total number of minority law school students.³⁶ Rather, he argues, such programs simply shift minority students from those law schools popularly perceived as less prestigious to those perceived as more prestigious.³⁷ He further contends that minority applicants who were admitted to one or more highly selective schools as a result of an affirmative action admission practice most likely would have gained admission to a less selective school without need for affirmative action programs.³⁸ The data from the 1990-1991 application year do not support Summers's hypothesis. At the simplest level, as shown in Table 3, the means on both LSAT score and UGPA are significantly lower for applicants of color than for white applicants for every group except Asian American applicants. The differences are both statistically and practically significant.³⁹ These data suggest that if these quantitative measures of prior academic attainment are used as the only input to an admission model, students of color as a group are likely to be systematically excluded from law school admission opportunities.

As noted previously, the Law School Grid Model provides a vehicle to examine the probability of admission independent of the law schools to which applications were made. This ability is necessary to test the assertion that affirmative action admission programs do not necessarily result in a net increase in the total number of minority law students. The first step was to calculate the proportion of admitted white applicants to total white applicants within each of the seventy-two cells in the LSAT/UGPA grid developed for this study. The results from this calculation are shown in Table 4. These data demonstrate that the proportion of admitted applicants is higher within cells

³⁶ See Summers, *supra* note 13, at 384-86 (asserting that practice of preferential admissions does not add substantially to total number of minority law students).

³⁷ See *id.*

³⁸ See *id.*

³⁹ Practical significance is measured using Cohen's *d*. A *d* value of .20 is a small effect size; a *d* of .50 is a medium effect size. See Jacob Cohen, *Statistical Power Analysis for the Behavioral Sciences* 20-27 (2d ed. 1988) (explaining effect size index for variable *d*).

TABLE 3
LSAT AND UGPA MEANS AND STANDARD DEVIATIONS BY
ETHNIC GROUP FOR 1990-1991 LAW SCHOOL APPLICANTS

	Ethnic Group						
	American Indian	Asian American	Black	Hispanic	Mexican American	Puerto Rican	White
N	489	3,711	7,083	2,304	1,109	628	72,742
LSAT							
Mean	30.27	33.22	25.00	30.13	29.70	27.56	34.35
Standard Deviation	7.09	7.32	7.07	7.19	7.18	7.88	6.29
UGPA							
Mean	2.87	3.07	2.70	2.95	2.90	2.89	3.09
Standard Deviation	0.47	0.51	0.46	0.45	0.44	0.45	0.46
LSAT difference*	-0.58	-0.16	-0.33	-0.60	-0.66	-0.97	
UGPA difference*	-0.44	-0.03	-0.82	-0.28	-0.39	-0.41	

* The mean difference is in *d* units (Cohen, 1988): (ethnic group mean - white mean)/total group standard deviation. A minimum *d* value of ± 2 is required to be considered a practically significant effect.

representing high LSAT scores and high UGPAs than in cells representing low LSAT scores and low UGPAs. In general, the proportions also decrease within a given UGPA range as the LSAT ranges go from higher to lower. Likewise, there is a decrease in proportion within a given LSAT range as the UGPA ranges go from higher to lower. As an example, look at the column representing LSAT scores in the 40-44 range. As the UGPA range decreases from greater than or equal to 3.75 to less than 2.00, the proportion of admitted applicants decreases from .96 to .48. The few exceptions are attributable partially to additional factors considered in the admission process and partially to the small sample sizes found in some cells. For example, the number of white applicants with an LSAT score greater than or equal to 45 and a UGPA less than 2.00 is only four.

The Law School Grid Model functions under the assumption that in an admission environment that does not take race into consideration, ethnic and white applicants would be admitted in the same proportions within the same LSAT/UGPA grids. The data in Table 5 show the estimated number and percentage of applicants from each ethnic group who would have been admitted to at least one law school using this model, as well as the number who actually were admitted and the number who would have been admitted using the LSAT/UGPA-combined logistic regression model. For example, the table shows that among 1109 Mexican American law school applicants in 1990-1991, 629, or 57%, were offered admission to at least one school. If admission decisionmakers had used LSAT score and UGPA exclusively in the way modeled by the Law School Grid Model, only 439

TABLE 4
PROBABILITY OF LAW SCHOOL ADMISSION OBTAINED BY DIVIDING
THE NUMBER OF WHITE 1990-1991 ADMITTED APPLICANTS BY THE
TOTAL NUMBER OF WHITE APPLICANTS IN EACH CELL

UGPA	LSAT Scores							
	GE45	40-44	35-39	30-34	25-29	20-24	15-19	LT15
GE 3.75	0.98	0.96	0.92	0.78	0.49	0.34	0.14	0.00
3.5-3.74	0.98	0.93	0.88	0.71	0.43	0.21	0.24	0.00
3.25-3.49	0.93	0.90	0.84	0.61	0.32	0.19	0.13	0.00
3.00-3.24	0.89	0.87	0.77	0.51	0.26	0.21	0.16	0.00
2.75-2.99	0.90	0.80	0.68	0.36	0.22	0.17	0.05	0.00
2.50-2.74	0.78	0.73	0.53	0.30	0.22	0.14	0.03	0.00
2.25-2.49	0.73	0.54	0.45	0.25	0.21	0.08	0.04	0.00
2.00-2.24	0.68	0.55	0.37	0.24	0.14	0.03	0.02	0.00
LT 2.00	0.75	0.48	0.36	0.20	0.07	0.04	0.00	0.00
Total	0.93	0.87	0.74	0.47	0.26	0.15	0.07	0.00

(40%) would have received at least one offer to a law school—but not necessarily a law school to which they applied or desired to attend due to factors such as cost or geographic location. The table also shows that only 260 (23%) are predicted by the logistic regression model to have received an offer to at least one school to which they applied. The results of the analyses using the Law School Grid Model, on their face, are somewhat more encouraging than the results obtained using the logistic regression models. Even so, the data show that the overall effect of using a decision process that relies only on LSAT scores and UGPA without consideration of race would be to reduce substantially the proportion of applicants of color who obtained offers of admission to law school. The number of students of color who would be admitted to at least one law school is 66% of the number actually admitted if Asian American applicants are included, and 57% if they are excluded. Most severely affected would be black applicants. In the 1990-1991 application year, nearly half of the black applicants were admitted to at least one school to which they applied. The LSAT/UGPA-combined model predicts that only 10% of them would have been admitted to at least one school to which they applied. The Law School Grid Model suggests that only 23% would have qualified for admission to at least one law school in the study.⁴⁰

⁴⁰ An alternative way to think about the impact of the two LSAT/UGPA models of admission decisions is in terms of the proportional representation from selected ethnic groups that would result from their application. The percentage distribution of 1990-1991 admitted students, as well as the percentage distribution predicted under each of the LSAT/UGPA models is as follows:

TABLE 5

NUMBER AND PERCENTAGE OF STUDENTS ADMITTED COMPARED WITH THOSE PREDICTED TO BE ADMITTED TO LAW SCHOOL FROM TWO MODELS FOR ESTIMATING THE IMPACT OF ADMISSION DECISIONS BASED ON LSAT SCORE AND UGPA WITHOUT CONSIDERATION OF RACE

Ethnic Group		Number of Applicants	Number Admitted	Predicted Law School Grid Model	Predicted Combined Logistic Regression Model
American Indian	Number	489	302	201	153
	Percent*		61.76	41.06	31.29
Asian American	Number	3,711	2,312	2,026	1,493
	Percent		62.30	54.60	40.23
Black	Number	7,083	3,435	1,631	711
	Percent		48.50	23.02	10.04
Hispanic	Number	2,304	1,351	974	700
	Percent		58.64	42.26	30.38
Mexican American	Number	1,109	629	439	260
	Percent		56.72	39.60	23.44
Puerto Rican	Number	628	324	213	102
	Percent		51.59	33.91	16.24
White	Number	72,742	42,287	42,287	40,358
	Percent		58.13	58.13	55.48
Total	Number	88,066	50,640	47,771	43,777

* Percent shows the percentage of the total number of applicants in each ethnic group who were actually admitted or predicted to be admitted by the models.

5. Questioning the Assumptions of the Law School Grid Model

A necessary assumption underlying the suggestion that affirmative action admission programs simply reallocate students of color to

TABLE N3

	Percent Applicants	Percent Law School Grid Model	Percent Logistic Regression Model	Percent Actual
American Indian	0.56	0.42	0.35	0.60
Asian American	4.21	4.24	3.41	4.57
Black	8.04	3.41	1.62	6.78
Hispanic	2.62	2.04	1.60	2.67
Mexican American	1.26	0.92	0.59	1.24
Puerto Rican	0.71	0.45	0.23	0.64
White	82.60	88.52	92.19	83.51

These data show, for example, that black applicants make up approximately 8% of the total applicant pool and just under 7% of the pool of 1990-1991 admitted applicants. Under the Law School Grid Model they are predicted to make up 3.4% of the admitted applicants, and under the logistic regression model, 1.6%.

more selective schools⁴¹ is that students of color would, in fact, attend any school to which they were admitted. The data and analyses reported in this study counter such an assumption.

The grid data for black applicants show that more than half of the applicants who would have been admitted to some school fall in approximately the lower right quadrant of that table.⁴² These are applicants with LSAT scores less than 35 and UGPAs less than 3.25. In order to examine the kinds of schools that accepted students with scores and grades in these ranges in 1990-1991, results from a cluster analysis study of law schools were revisited.⁴³ The purpose of the cluster analysis study was to "determine whether a discrete and stable grouping of law schools exists when a variety of characteristics of the schools and their students are considered simultaneously."⁴⁴ In the study, the seven characteristics of size, cost, selectivity of the school, faculty/student ratio, percent of students who are minority, median LSAT score, and median UGPA were identified as ones on which law schools might differ in ways that are important to the outcomes of many research studies about legal education.⁴⁵ The results from the study suggest six groupings of law schools, with the number of schools per group ranging from fifty-three to eight.⁴⁶ Although there was no inherent rank order to the groupings or "clusters" as they were developed, the six clusters are sorted for purposes of this study by median LSAT and median UGPA of their entering class, with the highest median cluster designated Cluster 1 and the lowest median cluster designated Cluster 6.⁴⁷

The Fall 1991 entering students with LSAT scores less than 35 and UGPA less than 3.25 were identified for the purpose of learning where they were attending law school. The number of these students attending each law school was then summarized by cluster rather than by individual school. The data reveal that 74% of the white students in that LSAT/UGPA group attended Cluster 4 or Cluster 5 schools. An examination of both the overall distribution of students across

⁴¹ See Summers, *supra* note 13, at 384 ("[E]ach law school, by its preferential admission, simply takes minority students away from other schools whose admissions standards are further down the scale.").

⁴² See, e.g., Table 4, *supra* p. 21.

⁴³ See Linda F. Wightman, *Clustering U.S. Law Schools Using Variables that Describe Size, Cost, Selectivity, and Student Body Characteristics* (Law Sch. Admission Council Research Report No. 93-04, Dec. 1993). Cluster analysis is an empirical classification methodology.

⁴⁴ *Id.* at 1.

⁴⁵ See *id.* at 5.

⁴⁶ See *id.* at 25-26.

⁴⁷ The average scores on each of the clustering variables for schools in each cluster are as follows:

clusters and the ethnic distribution of students across clusters suggests that finding 74% of the white students from that score range in Clusters 4 and 5 schools is disproportionate in that just under 45% of all Fall 1991 first-year students and 47% of all white students attended Cluster 4 or Cluster 5 schools. The question of interest is whether the same high proportion of applicants of color might be willing and able to attend schools in these clusters if they were the only schools to which the applicants were accepted. There are two characteristics in particular about the schools that make up Clusters 4 and 5 that place doubt on the assumption that students of color would have either made application to those schools or attended them. First, the schools in these two clusters enroll the lowest proportion of minority students of any of the clusters.⁴⁸ Second, the schools in Cluster 4 are primarily private (98%) and are among the most costly of the schools—being exceeded only by the eighteen schools included in Cluster 1.⁴⁹

The cost issues appear even more compelling when socioeconomic status (SES) data⁵⁰ are taken into account. The relationship between SES and ethnicity is statistically significant for the entire Fall 1991 entering class,⁵¹ but it is even stronger within the particular sub-

TABLE N4

Variable	Cluster					
	1	2	3	4	5	6
Tuition	13,659.89	11,153.92	3,481.18	11,428.94	6,141.97	3,136.92
Enrollment	704.06	1,466.68	606.54	797.67	516.08	347.63
Selectivity	0.17	0.26	0.28	0.34	0.50	0.33
Percent minority	20	19	15	12	8	58
Faculty/student ratio	22.04	28.14	21.14	24.73	21.64	17.77
LSAT	42.06	39.53	37.65	35.51	32.29	29.25
GPA	3.50	3.34	3.29	3.09	3.05	2.86
Percent private	88	60	4	98	56	29
Number of schools in the cluster	18	19	52	53	21	8

⁴⁸ See Table N4, *supra* note 47 (listing percent of minority enrollment).

⁴⁹ See *id.* (listing tuition figures and proportion of private institutions).

⁵⁰ A description of methodology used to define SES categories is found *infra* notes 96-99 and accompanying text.

⁵¹ Data show that SES is not independent of ethnic group for the longitudinal sample of 1991 first-year law students participating in the *LSAC Bar Passage Study*. See Linda F. Wightman, *Women in Legal Education: A Comparison of the Law School Performance and Law School Experiences of Women and Men* 115 n.3 (Law Sch. Admission Council Research Report Series 1996) (showing distribution of sample by SES and ethnicity). For a description of the bar passage study, see *supra* note 8. Note that in the study from which these data are extracted, Mexican American, Puerto Rican, and Hispanic student data are collapsed into a single category labeled "Hispanic." See Wightman, *supra*, at 6 (noting composition of group identified as "Hispanic"). The distribution by SES and ethnicity is shown below:

set of students who fall in the less-than-35 LSAT score, less-than-3.25 UGPA cells on the LSAT/UGPA grids. That is, only 24% of the white students in the group who had LSAT scores and UGPAs within the less-than-35 and less-than-3.25 range are classified as lower-middle SES compared with 53% of the black students, 58% of the Puerto Rican students, and 63% of the Mexican American students.⁵² These data suggest that students of color from lower SES groups are less likely to attend high-tuition Cluster 4 schools.

Next, consider the logistic regression models, which focus only on decisions made by schools to which the students actually made application, as a means of questioning the assumptions of the Law School Grid Model. These data provide an alternative means for evaluating the overall reallocation of nonwhite students across law schools that would occur from use of a strictly quantitative admission model. Overall, the 1990-1991 law school applicants made an average of 4.9

TABLE N5

Socioeconomic Group	Ethnic Group				
	Asian American	Black	Hispanic	White	Total
Upper					
Number	209	396	150	750	1,505
Percent	25.43	27.75	16.45	24.75	24.31
Upper-middle					
Number	239	115	140	759	1,253
Percent	29.08	8.06	15.35	25.05	20.24
Middle					
Number	172	202	178	844	1,396
Percent	20.92	14.16	19.52	27.85	22.55
Lower-middle					
Number	202	714	444	677	2,037
Percent	24.57	50.04	48.68	22.34	32.90
Total					
Number	822	1427	912	3,030	6,191
Percent	100.00	100.00	100.00	100.00	100.00

Id. at 115 n.3.

⁵² The relationship between ethnicity and SES for the group of students who fall in the less-than-35 LSAT score, less-than-3.25 UGPA cells on the LSAT/UGPA grids is both statistically and practically significant. Due to the fact that small differences may be statistically significant when sample sizes are large, measures of effect size frequently are reported to serve as a measure of practical significance. The effect size for these data is .33. The effect size is measured using Cohen's w , which is $w =$

$$\sqrt{\chi^2/N}$$

Values for w of .1 are typically considered to be small effect sizes; values of .3 are considered medium effect sizes. See generally Cohen, *supra* note 39, at 216-26 (discussing effect size index of Cohen's w).

applications⁵³ each (only Asian American students applied to significantly more schools than white students—6.7 compared with 4.8). Most students applied to a range of schools. Further, the number of students who were accepted to at least one school to which they applied greatly exceeds the number who matriculated.⁵⁴ This is true for both students of color and for white students. These data do not suggest that applicants of color would attend any school that offered them admission.

Another important fact is that all first-year seats in the law schools reported herein were filled in Fall 1991. Although some students who failed to gain admission might readily lower their aspirations and accept admission at a less selective institution, they could do so only with the consequence of displacing another student at that institution. It does not necessarily follow that open seats in the less selective schools would become available for applicants of color as a result of white students at those schools gaining a place in the more selective schools. Rather, some of the seats at the more highly selective schools could be taken by white applicants who made no application to the less selective schools, or who did not choose to attend the less selective school. Thus, some of the white students who lost a seat at a less selective school might not have been admitted to any school.

The assumptions of Summers's argument (i.e., that applicants would lower their expectations and apply to and attend less selective schools if there were no affirmative action admission practices)⁵⁵ are questionable, as suggested in the previous discussion. Even if those assumptions were not questionable and applicants indeed would apply to and attend less selective schools, questions about how applicants of color would be allocated across different law schools are of interest. This interest results partly from the belief that career opportunities and social mobility are not independent of the reputation of the law school attended. A second issue of concern related to allocation of applicants, and thus students, across law schools is the benefits to the educational experiences of all law students that are a consequence of interaction with a diverse student body. Previous research, using data from Fall 1991 first-year students, has examined the allocation of stu-

⁵³ This average is based on all applications made by all 1990-1991 applicants, including applications to non-U.S. law schools. See *supra* note 7.

⁵⁴ For example, the data in Table 2, *supra* p. 16, identify 50,640 admitted applicants, while the ABA reports 44,050 Fall 1991 first-year students. See American Bar Ass'n Section of Legal Educ. and Admissions to the Bar, *A Review of Legal Education in the United States: Fall 1992*, at 67 (1993) (providing legal education and bar admission statistics).

⁵⁵ See Summers, *supra* note 13, at 384 (arguing that preferential admission policies merely reallocate minority law students to more prestigious schools).

dents of color across law schools categorized by various definitions of prestige or similarity.⁵⁶ A distinguishing feature of one of these clusters, Cluster 6, was the high percentage of minority students in attendance. Approximately 19% of black students attended a school in Cluster 6. The data show that with the exception of Cluster 6, which is partly distinguished by the high proportion of minority students,⁵⁷ students of color were proportionally better represented among the three clusters with the highest median LSAT scores and UGPAs than among the other clusters, and they were fairly evenly represented among the three highest LSAT/UGPA clusters.⁵⁸ For example, 6% of the students attending Cluster 1 schools are black, as are 6% of those attending Cluster 2 schools and 7% of those attending Cluster 3 schools. Analyses were undertaken to sort the admission prediction data reported in Table 2 to identify the school in the highest cluster to which each student was accepted (using only LSAT score and UGPA to define relative positions). An earlier study of students' application and decision patterns demonstrated that among schools to which they were accepted, applicants were most likely to choose to attend the school with the highest median LSAT score and UGPA.⁵⁹ Consistent with the findings of Braun and Szatrowski,⁶⁰ Table 6 was built using the assumption that applicants would choose to attend a school in the highest LSAT/UGPA cluster to which they were accepted. There are obvious exceptions to this assumption for individual applicants, but it is useful for illustrating the overall impact on the demographic distribution of students across law schools of an admission model that uses only LSAT score and UGPA. The data in Table 6 illustrate a dramatic reallocation of applicants of color across law school clusters. The percent columns show the percentage of the total applicants accepted or predicted to be accepted within each cluster. For example, white applicants make up 78.6% of the total applicants actually accepted to Cluster 1 schools and 87.76% of the applicants predicted to be ac-

⁵⁶ See Wightman, *supra* note 11, at 25-28 (showing distribution of entering students among law schools based upon stratum and cluster of schools). The clusters given in that study are numbered differently such that Clusters 5, 4, 1, 3, 2, and 6 correspond respectively with Clusters 1, 2, 3, 4, 5, and 6 in this study. See *id.* at 21.

⁵⁷ See *id.* at 28 (showing that white students comprised only 42% of students in Cluster 6).

⁵⁸ See *id.* (showing general distribution of law students based on ethnicity for each law school cluster).

⁵⁹ See Henry I. Braun & Ted H. Szatrowski, *Development of a Universal Grade Scale for American Law Schools and the Reconstruction of Ideal Validity Experiments*, in *Reports of LSAC Sponsored Research: Volume IV, 1978-1983*, at 457, 478 (Law Sch. Admission Council Report No. LSAC-82-3, 1984) (discussing tendency of students to attend best schools to which admitted as explanation of results).

⁶⁰ See *id.*

cepted based on the LSAT/UGPA logistic regression model. The least affected group was Asian American applicants, particularly among Cluster 1 and Cluster 2 schools. As is true for all the analyses reported in this study, the greatest impact was observed among black applicants. Approximately 7% of the accepted applicants in each of Clusters 1, 2, and 3 were black in the 1990-1991 application year. The model predicted percentages reduced to between a low of 0.4% (Cluster 1) and a high of 1% (Cluster 2) among the schools in those three clusters. This table also shows that among the 711 black applicants predicted to be admitted to all ABA-approved schools, approximately 40% (284) would be admitted only to Cluster 6 schools—schools with predominately minority student populations. These figures are astounding when compared with law school enrollment figures for 1965, when affirmative action admission practices were not yet widespread in law schools. The Association of American Law Schools (AALS) reported that there were only 700 black law students in that year and almost half were attending the five predominately black law schools.⁶¹ The AALS also noted that black enrollment was 1.3% of total enrollment, and well below 1% in the 145 law schools that were not predominately black.⁶² For the data reported in Table 5, black applicants are predicted to make up 1.6% of the total admitted pool and less than 1% of the applicants admitted to one of the 163 schools not included in Cluster 6.

Using the Law School Grid Model instead of the logistic regression model resulted in a predicted reduction in representation of non-white students that is somewhat less dramatic (black applicants were predicted to make up 3.4% of the total admitted pool compared to 1.6% under the logistic regression model). Even so, the Law School Grid Model predictions are substantially lower than the observed proportions (black applicants made up 6.8% of the actual admitted pool). More important, the discussion and analyses presented in this section demonstrated that the distribution across schools of admitted non-white applicants would be altered dramatically and the assumption that applicants of color would, in fact, attend any school to which they were accepted is unsupported. These data illustrating the effects of an admission model that relies exclusively on LSAT score and UGPA necessitate a critical evaluation of the validity of these two variables

⁶¹ See Brief for the President and Fellows of Harvard College as Amicus Curiae at 36, *DeFunis v. Odegaard*, 416 U.S. 312 (1974) (No. 73-235) (citing 1965 Proceedings of the Association of American Law Schools 112). There is substantial, but not complete, overlap between Cluster 6 schools and the predominantly black law schools referenced by the AALS.

⁶² See *id.*

for use in the admission process. Validity issues are addressed in the next section.

II

THE APPROPRIATE ROLE OF NUMERICAL INDICATORS

The tension between commitment to the principles of racial and ethnic diversity and of competitive evaluation based on quantifiable indicators of individual achievement frequently results in questions about the appropriateness of the use of numerical indicators, especially the LSAT, in the admission process. These questions typically are raised by questioning the validity of the test, particularly the validity of its use with applicants of color. However, one does not need to argue that the test is invalid or a biased predictor against members of certain groups in order to substantiate the negative consequences of misuse or overuse of the test in the admission process. The LSAT is valid for a limited use⁶³ and has a clearly defined, narrow focus: it is a test of acquired reading and verbal reasoning skills that have been shown to correlate with academic successes in the first year of law school. When it is used for a different and/or far broader purpose, not only is the use inappropriate, but calling on the test to do more than it was intended to do damages its validity. This distinction is important to keep in mind because misunderstanding it can detract from the more central issue. Specifically, several studies support the test as a valid measure for the limited purpose for which it was designed and indicate that it is as valid for applicants of color as it is for white applicants.⁶⁴ However, a test that does a very good job of measuring a

⁶³ See, e.g., Franklin R. Evans, Recent Trends in Law School Validity Studies, in Reports of LSAC Sponsored Research: Volume IV, 1978-1983, at 347, 359 (Law Sch. Admission Council Report No. LSAC-82-1, May 1984) (observing that LSAT is better predictor of first-year performance than UGPA); Robert L. Linn & C. Nicholas Hastings, A Meta Analysis of the Validity of Predictors of Performance in Law School, in Reports of LSAC Sponsored Research: Volume IV, 1978-1983, at 507, 512 (Law Sch. Admission Council Report No. LSAC-83-1, May 1984) (noting overwhelming evidence that LSAT and UGPA have useful degree of predictive validity); W.B. Schrader, Summary of Law School Validity Studies, 1948-1975, in Reports of LSAC Sponsored Research: Volume III, 1975-1977, at 519, 532 (Law Sch. Admission Council Report No. LSAC-76-8, Dec. 1977) (noting that LSAT and UGPA have been found to be substantial predictors in nearly every study); Linda F. Wightman, Predictive Validity of the LSAT: A National Summary of the 1990-1992 Correlation Studies 23 (Law Sch. Admission Council Research Report No. 93-05, Dec. 1993) (finding that LSAT and UGPA are useful predictors of first-year performance and that LSAT is better predictor than UGPA).

⁶⁴ See, e.g., Robert L. Linn & C. Nicholas Hastings, Group Differentiated Prediction, 8 *Applied Psychol. Measurement* 165, 165-66 (1984) (noting that most studies show that LSAT and UGPA tend to overpredict minority group performance rather than underpredict); Donald E. Powers, Comparing Predictions of Law School Performance for Black, Chicano, and White Law Students, in Reports of LSAC Sponsored Research: Volume III,

TABLE 6

DISTRIBUTION OF 1990-1991 APPLICANTS BY CLUSTER, ETHNIC GROUP, AND ACTUAL AND PREDICTED LAW SCHOOL ADMISSION USING LSAT AND UGPA IN A LOGISTIC REGRESSION MODEL*

	Cluster	Actual Number Admitted	Predicted Number	Actual Percent of Applicants Admitted	Predicted Percent of Applicants
American Indian	1	29	9	0.45	0.17
Asian American	1	471	360	7.30	6.61
Black	1	420	24	6.51	0.44
Hispanic	1	137	78	2.12	1.43
Mexican American	1	93	27	1.44	0.50
Puerto Rican	1	53	10	0.82	0.18
White	1	5,072	4,783	78.60	87.76
Total		6,453	5,450		
American Indian	2	40	20	0.40	0.24
Asian American	2	592	394	5.94	4.68
Black	2	618	88	6.21	1.05
Hispanic	2	367	224	3.69	2.66
Mexican American	2	129	43	1.30	0.51
Puerto Rican	2	94	37	0.94	0.44
White	2	7,897	7,414	79.30	88.09
Total		9,958	8,416		
American Indian	3	81	21	0.72	0.22
Asian American	3	359	179	3.18	1.88
Black	3	809	58	7.16	0.61
Hispanic	3	247	79	2.18	0.83
Mexican American	3	135	33	1.19	0.35
Puerto Rican	3	52	10	0.46	0.11
White	3	9,513	8,996	84.14	94.48
Total		11,306	9,522		
American Indian	4	75	49	0.48	0.35
Asian American	4	684	399	4.33	2.88
Black	4	746	132	4.73	0.95
Hispanic	4	420	207	2.66	1.49
Mexican American	4	194	107	1.23	0.77
Puerto Rican	4	98	33	0.62	0.24
White	4	13,251	12,648	83.93	91.29
Total		15,788	13,854		
American Indian	5	63	43	1.47	1.08
Asian American	5	58	38	1.35	0.96
Black	5	233	74	5.42	1.86
Hispanic	5	79	44	1.84	1.11
Mexican American	5	20	11	0.47	0.28
Puerto Rican	5	12	3	0.28	0.08
White	5	3,814	3,725	88.74	93.83
Total		4,298	3,970		
American Indian	6	11	4	0.96	0.43
Asian American	6	36	27	3.16	2.89
Black	6	556	284	48.73	30.37
Hispanic	6	61	28	5.35	2.99
Mexican American	6	45	27	3.94	2.89
Puerto Rican	6	12	7	1.05	0.75
White	6	397	540	34.79	57.75
Total		1,141	935		

* Applicants whose ethnic identity was listed as "other" or not reported are included in the total number admitted within each cluster in order to accurately show the distribution. Additionally, two schools in the study are not included in any cluster.

narrow, albeit important, range of acquired academic skills cannot serve as a sole determinant in the allocation of limited educational opportunity. Neither can it serve that purpose when coupled with UGPA. UGPA carries its own set of limitations, including the influence of factors such as leniency of graders, rigor of the curriculum represented by the grades, and students' motivation and application. In addition, the LSAT score and UGPA of law school applicants are correlated .38 with one another. Thus, there is some redundancy in these measures.⁶⁵

Concerns about validity of the LSAT or the LSAT and UGPA used in combination are often the result of misunderstanding or confusion between the scientific definition of validity in test theory and the lay interpretation of validity. Within the psychometric field, the general concept of validity is a broad one, encompassing the accumulation of data to support a particular use of a test. First, however, it is important to understand the scope and limitations of the test itself. It is only in the context of that limited use that validity data are meaningful.

A. Evaluating Validity Evidence

The usual procedure for establishing validity with regard to the LSAT is to obtain evidence that there is a relationship between it and the outcome of interest—usually academic performance in law school or, more specifically, performance in the first year of law school. There has been and continues to be substantial statistical support for the claim of validity of the LSAT for use in this limited sense in the admission process.⁶⁶

Typically, this evidence is in the form of a correlation between LSAT and first-year grade-point average in law school (FYA), or be-

1975-1977, at 721, 747 (Law Sch. Admission Council Report No. LSAC-77-3, Dec. 1977) (finding that LSAT scores are as valid and successful a predictor for minority students as for white students); Linda F. Wightman & David G. Muller, *An Analysis of Differential Validity and Differential Prediction for Black, Mexican American, Hispanic, and White Law School Students I* (Law Sch. Admission Council Research Report Series No. 90-03, June 1990) (noting that validity data does not indicate LSAT scores are less valid for minorities than for whites).

⁶⁵ The correlation coefficient provides a measure of the strength of the association between two variables. The stronger the association, the higher the correlation. When two correlated variables such as LSAT and UGPA are used jointly to predict a criterion such as first-year grade-point average in law school (FYA), the amount of variance in the criterion that they jointly explain is not so large as the sum of the amount of variance that each explains alone. This is so because some of the variance in FYA that is accounted for by LSAT is also accounted for by UGPA.

⁶⁶ See sources cited *supra* note 63 (noting value of LSAT as predictor of first-year performance).

tween LSAT/UGPA-combined and FYA.⁶⁷ The correlation coefficient provides some information about how useful a predictor is—but there is no clear answer as to how large the coefficient should be in order for the predictor to be useful.⁶⁸ National validity data for U.S. and Canadian law schools during the period 1990-1992 show that the LSAT is a substantially better predictor of first-year performance in law school than is the UGPA.⁶⁹ During that time period, the median correlation coefficient for the LSAT alone is .41, compared with .26 for UGPA alone.⁷⁰ The data also show that the combination of LSAT and UGPA provides better prediction than either predictor alone.⁷¹ The average multiple correlation across 167 schools for whom three years of data are available is .49.⁷² These results are consistent with findings from earlier LSAT validity summary reports.⁷³

The magnitudes of the correlation coefficients reported above are often the subject of criticism, particularly when considering that the square of the correlation coefficient is an indicator of the amount of the variation in the criterion that is accounted for by the predictors. Squaring the median validity coefficient for LSAT score and UGPA shows that these two variables account for approximately 25% of the variance in first-year law school grades. However, it is important to understand the restrictions imposed on the magnitude of the coefficients by the design of the validity studies that are undertaken. Validity coefficients are most likely an underestimate of the true validity of the LSAT alone or the LSAT and UGPA combined, primarily because the correlations are based only on the LSAT scores, UGPAs, and FYAs of those applicants who were accepted to and attended the studied law school and received an FYA. Most applicants with low LSAT

⁶⁷ See sources cited *supra* note 63.

⁶⁸ See *supra* notes 16, 65 (explaining correlation coefficients).

⁶⁹ See Wightman, *supra* note 63, at 23 (noting that LSAT is better predictor than UGPA).

⁷⁰ See *id.*

⁷¹ See *id.*

⁷² See *id.* Although the most recently published validity summary report is dated 1993, within-school correlation data are produced annually by the Law School Admission Council for U.S. and Canadian law schools and the results are monitored annually. So long as results remain stable, as they have for the LSAT, there is little need to update national summary data more frequently than every five to ten years. An updated summary report is anticipated following the 1997 correlation studies. That report will summarize the first available three-year data for students admitted with scores on the revised 120-to-180 LSAT score scale. The annual analyses of these data for 1994 first-year students suggest that the correlation study results essentially parallel the results found in the 1993 summary report.

⁷³ See, e.g., Evans, *supra* note 63, at 359 (finding median validity of LSAT/UGPA-combined predictor to be .47); Linn & Hastings, *supra* note 63, at 516 (finding mean observed validity of LSAT/UGPA-combined predictor to be .46); Schrader, *supra* note 63, at 531 (finding median validity of LSAT/UGPA-combined to be .45).

scores and low UGPAs are not admitted and, thus, there are no first-year grades for them. As a consequence, they cannot be included in the study. Also, students attending a particular law school tend to have LSAT scores within a fairly small range relative to the range of scores among all applicants to that school, as well as among all applicants to all schools. Each of these factors leads to a phenomenon known as "restriction of range"—a reduction in the variability of the predictors within the data available for analyses. Because there is less variability in the scores of admitted students than in the scores of all applicants, correlations are smaller than they would have been had the class been admitted randomly from the total applicant pool. In addition to the problem of reduced variability, matriculated students include some who are admitted as a result of special consideration. That is, some students with low test scores or low UGPAs are admitted to law school, but they are usually not typical of the low-scoring applicants who are rejected. Instead, they are admitted because the school has some other evidence of their ability to do well in law school. Frequently these applicants show a discrepancy between LSAT score and UGPA, and the admitting school allows a high score on one predictor to compensate for a low score on the other. Employing a compensatory model in the admission process has the effect of reducing the validity estimates. All of this supports the claim that the validity coefficients reported for the LSAT tend to be underestimates. Even so, they are the best information available, and even as underestimates, they are quite reputable, particularly when compared with the validity coefficients reported for other higher-education admission tests.⁷⁴

Questions about the overall validity of the LSAT often are raised in conjunction with concerns about its validity for racial or ethnic minority group applicants.⁷⁵ Research into questions of differential va-

⁷⁴ For example, the correlation of the Graduate Management Admission Test (GMAT) total score with first-year MBA grades is .38. See Educational Testing Serv., *The GMAT Validity Study Service: A Three-Year Summary, 1988-89 through 1990-91*, at 5 (Oct. 14, 1994) (unpublished manuscript, on file with the *New York University Law Review*). For the GRE, the correlations between verbal test scores and graduate first-year grade-point average is .30; for quantitative scores, .29; for analytical, .28. For the three scores combined, the correlation is .34, and when UGPA is added the correlation increases to .46. See Educational Testing Serv., *GRE 1995-96 Guide to the Use of the Graduate Record Examinations Program 31* (1995).

⁷⁵ See, e.g., Edward Rincon, *Tests Put a Bias in College Admissions*, *The Dallas Morning News*, Apr. 7, 1996, at 6J (arguing that test scores of African Americans and Hispanics have traditionally been negatively influenced by variety of factors having little to do with intelligence); Roberto Rodriguez, *Life After Hopwood*, *Black Issues in Higher Educ.*, Aug. 8, 1996, at 8 (noting experts who consider standardized tests as major cause of discrimination against people of color and women).

lidity of the LSAT have repeatedly demonstrated that LSAT scores used either alone or in combination with UGPA are as valid or more valid predictors of first-year grades in law school for black, Hispanic, and Mexican American students as they are for white students.⁷⁶ The research also shows that, contrary to popular belief, when UGPA is used alone as a predictor, it is less correlated with first-year grades for black students than for white students.⁷⁷ Concern about the magnitude of the validity coefficients for applicants of color is based on concern about how to most fairly evaluate test scores and undergraduate grades in making admission decisions. The research has shown consistently that when a regression equation is developed using combined data from white and minority students the equation tends, on average, to overpredict law school performance for minority students.⁷⁸

The data presented in Tables 1, 5, and 6 of this study provide evidence of the consequences of extreme or complete reliance on LSAT score and UGPA when making admission decisions. The data also demonstrate that, although the models fit well, they do not fully describe the admission process even for white students. Other factors, though perhaps less objective and more difficult to quantify, play a part in admission decisions. The data also show unequivocally that overreliance will lead to predictable and systematic exclusion of a large number of minority applicants from legal education. Discussion of other consequences of overreliance on LSAT and UGPA appear in the next section of this study. It confirms that a large proportion of those applicants who would be excluded are qualified to undertake the academic rigor of a legal education.

B. Law School Graduation and Bar Passage Data to Evaluate Test Use Questions

The data analyzed in this section illustrate substantial law school graduation rates and bar examination passage rates among Fall 1991 first-year students who would not have been admitted under the LSAT/UGPA-combined logistic regression model. A statistical test did not find a significant difference within any ethnic group between the law school graduation rates for those predicted to be admitted and those predicted not to be admitted. Some significant relationships are observed between predicted admission decision and bar passage, but for all groups for whom the relationship is significant, the effect size is

⁷⁶ See sources cited *supra* note 64 (finding that LSAT and UGPA are no less valid predictors for minorities than for whites).

⁷⁷ See *id.*

⁷⁸ See *id.*

small.⁷⁹ A logistic regression equation to predict bar passage from LSAT score and UGPA fits the data but the correlation between actual and predicted bar passage does not approach the magnitude of the correlation observed between actual and predicted admission decisions.

1. Results: Law School Graduation Data

The *LSAC Bar Passage Study*⁸⁰ longitudinal database of information about students who entered law school in Fall 1991 provides a unique opportunity to examine law school completion rates for students who would not have been admitted to law school if a model based only on LSAT score and UGPA were used. These data are compared with similar data for students who would have been admitted under that model. The data in Table 7 show a cross-tabulation of the number and percentage of students in seven ethnic groups who would and would not have been admitted to the school they attended and the number and percentage from each group who did and did not graduate from law school. These data complement the previous discussion about the role of LSAT score and UGPA as sole determinants of who is most qualified to attend law school.⁸¹ While the correlation of LSAT score and UGPA with first-year grades in law school is sufficient to support the validity of their use as part of the admission process,⁸² the data in Table 7 suggest that they are not significant predictors of graduation from law school. Within several ethnic groups, the proportion of students who would have been admitted by the model and who graduated slightly exceeds the proportion who would not have been admitted and who graduated. For Mexican American and white students, however, the proportion who would not have been accepted and who graduated slightly exceeds the proportion of graduates among those who would have been accepted. Regardless, the differences are not significant in either direction for any group. Specifically, a chi-square test of independence supports that predicted admission decision is independent of graduation within every ethnic group.

More important than the identification of the limitation of the utility of LSAT score and UGPA in predicting graduation, however, are the actual graduation rates reported in Table 7. The graduation rates among those students who would not have been provided an

⁷⁹ See *supra* note 52 (explaining effect size).

⁸⁰ See *supra* note 8.

⁸¹ See *supra* Part I.

⁸² See *supra* Part II.A.

TABLE 7
DISTRIBUTION OF FALL 1991 FIRST-YEAR LAW STUDENTS BY
ETHNIC GROUP, PREDICTED ADMISSION DECISION, AND LAW
SCHOOL GRADUATION

Ethnic Group	Predicted Admission Decision	Law School Graduation		
			No	Yes
American Indian	Yes	Number	5	30
		Percent*	14.29	85.71
	No	Number	23	84
		Percent	21.50	78.50
Asian American	Yes	Number	41	394
		Percent	9.43	90.57
	No	Number	76	574
		Percent	11.69	88.31
Black	Yes	Number	32	132
		Percent	19.51	80.49
	No	Number	372	1,311
		Percent	22.10	77.90
Hispanic	Yes	Number	25	198
		Percent	11.21	88.79
	No	Number	46	342
		Percent	11.86	88.14
Mexican American	Yes	Number	14	53
		Percent	20.90	79.10
	No	Number	82	362
		Percent	18.47	81.53
Puerto Rican	Yes	Number	2	23
		Percent	8.00	92.00
	No	Number	25	115
		Percent	17.86	82.14
White	Yes	Number	1,772	16,141
		Percent	9.89	90.11
	No	Number	408	4,115
		Percent	9.02	90.98

* Percent shows row percentages.

opportunity to enter law school under the regression model is impressive, strongly supporting the claim by legal education administrators that law schools offer admission to only those students of color who are qualified to meet the demands of law school academic work.⁸³ The black students in this sample came to law school with UGPAs that are, on average, nearly one standard deviation below those of the white students and LSAT scores that average more than one-and-a-half standard deviations below.⁸⁴ Even so, 78% of those who would not have been granted admission if the decision rested entirely on those numerical indicators attained graduation. This rate is not signif-

⁸³ See, e.g., Taylor, *supra* note 3, at B3 (arguing that number of applicants allows schools to fill classes with qualified students while also considering diversity factors).

⁸⁴ The LSAT and UGPA means and standard deviations for these Fall 1991 first-year students are:

icantly below the graduation rate attained by those black students whose admission status would have remained unchanged by the regression model.

In interpreting these data, it is important to keep in mind that not only were a higher proportion of students of color at some academic risk, but students of color also represented a higher proportion of students from lower SES backgrounds.⁸⁵ Academic difficulty is not the only reason that some students failed to graduate from law school. Data from the *First Follow-up Questionnaire* distributed as part of the *LSAC Bar Passage Study* suggest that financial considerations are among the most common reasons provided by students who dropped out during their first year of law school.⁸⁶

2. Bar Examination Passage Rate Analyses

The *LSAC Bar Passage Study* longitudinal database also carries data about bar examination performance for participants.⁸⁷ The graduation data provided in Table 7 is only partial evidence of positive outcomes associated with affirmative action admission practices. Bar passage rates provide another outcome variable against which those who would not have been accepted by the model can be compared with those who would have been accepted.

With few exceptions,⁸⁸ graduation is not sufficient for entry to the profession; graduates must also take the bar examination. In order to evaluate the additional outcome of entry to the profession, bar examination results data were examined. Table 8 shows the proportion of students who passed and failed the bar examination separately by ethnic group and by whether or not they would have been admitted to law school by the LSAT/UGPA-combined model. Note that the data in this table represent only those students who graduated from law school and for whom bar examination data were available.⁸⁹

	White	Black
Number of students	22,436	1,847
LSAT Mean	37.36	28.68
Standard deviation	5.09	6.00
UGPA Mean	3.26	2.86
Standard deviation	.40	.43

⁸⁵ See *supra* note 51.

⁸⁶ See Wightman, *supra* note 51, at 106-07.

⁸⁷ See *supra* note 8.

⁸⁸ See Admission to Bar by States—1991, 1992, 1993, 1994, and 1995, The Bar Examiner, May 1996, at 32, 32 (showing that Wisconsin still offers diploma privilege to select schools).

⁸⁹ At the time the data for this study were analyzed, 24,235 of the 27,135 Fall 1991 first-year students who agreed to the release of their law school and bar performance data were

The bar passage rates among those students who would not have gained admission using the LSAT/UGPA-combined regression model are compelling. Across all ethnic groups, for those students who were predicted *not* to be admitted, the bar passage rates range from 72.5 to 93.3%. Among those who were predicted to be admitted, the pass rates range from 85.2 to 96.6%.⁹⁰

TABLE 8
DISTRIBUTION OF FALL 1991 FIRST-YEAR LAW STUDENTS BY
ETHNIC GROUP, PREDICTED ADMISSION DECISION, AND BAR
EXAMINATION STATUS

Ethnic Group	Predicted Admission Decision	Bar Examination Status	
		Fail	Pass
American Indian	Yes	4	23
	No	14.81*	85.19
Asian American	Yes	21	341
	No	5.80	94.20
Black	Yes	12	111
	No	9.76	90.24
Hispanic	Yes	13	174
	No	6.95	93.05
Mexican American	Yes	4	46
	No	8.00	92.00
Puerto Rican	Yes	1	21
	No	4.55	95.45
White	Yes	507	14,397
	No	3.40	96.60
		249	3,482
		6.67	93.33

* Percent shows row percentages.

For completeness, a logistic regression model was constructed to evaluate the relationship between LSAT score, UGPA, and bar examination pass/fail status. The statistical indicators confirm that these

known to have graduated. Among these graduates, bar examination data are available for 22,239.

⁹⁰ For students who took the bar examination more than one time, status is reported as pass if they passed at least one bar examination.

data fit the model, but the correlation between actual pass and predicted pass is only .30—considerably lower than the correlation between actual and predicted admission decisions reported earlier in this study.⁹¹ This low correlation is partly attributable to the overall 93.8% pass rate among this sample.⁹² Thus, even though the regression model suggests a relationship between the predictor variables and the pass/fail criterion measure, it is not a strong one. A chi-square test of independence between predicted admission decision (yes/no) and bar passage status (pass/fail) confirms this conclusion. That is, the data show a statistically significant relationship and a small effect size for Asian American, black, Hispanic, and Puerto Rican students, a statistically but not practically significant one for white students, but no relationship between the two variables for American Indian and Mexican American students.⁹³ Thus, the data suggest little to no difference in the likelihood of passing the bar examination between students predicted to be admitted to law school and those predicted *not* to be admitted by a model that depends only on LSAT score and UGPA.

III

ALTERNATIVES TO RACE OR ETHNICITY AS ADMISSION FACTORS TO ACHIEVE DIVERSITY

Advocating an admission process that does not take race into consideration is not necessarily to advocate a process that relies solely on numeric indicators of individual academic achievement. Some commentators suggest that there are a variety of factors that should be used in the admission process that might identify diversity contributions or evidence of lack of educational opportunity.⁹⁴ Such factors

⁹¹ See *supra* notes 23-27 and accompanying text (discussing logistic regression admission model fit).

⁹² The pass rate for this sample appears to be reasonably representative of the 1994 graduating class. For the majority of those who entered law school in Fall 1991, the first opportunity to take the bar examination was July 1994. Following that administration, the National Conference of Bar Examiners (NCBE) announced an overall pass rate among first-time takers of 84.7%. See National Conference of Bar Exam'rs, 1994 Statistics, The Bar Examiner, May 1995, at 12-14 (providing state-by-state bar passage numbers). Considering that LSAC data include repeater data, they were consistent with the national results reported by the NCBE, suggesting that this sample is representative of the population from which it was drawn.

⁹³ The statistically significant chi-square for white students is a consequence of the large sample size. The *w* is .07, not large enough to be considered even a small effect. See *supra* note 52 (explaining effect size).

⁹⁴ See, e.g., Chris Klein, With Diversity Under Attack, Private Schools Seek Alternatives, Nat'l L.J., Apr. 29, 1996, at A18 (describing law school dean's intention to "prob[e] the economic, social and geographic traits of the applicants"); Regent Softens Stance on

could result in a student body that would be diverse along a variety of dimensions, including race. Based on the data from the samples used in this study, three of the often-identified factors that might foster diversity—socioeconomic status, selectivity of undergraduate school, and undergraduate major—were evaluated. None of these factors produced a highly qualified, ethnically diverse student body when considered in the admission process without simultaneous consideration of race.

The final analyses of this study focus on the apparent impact on the ethnic diversity of the admitted class if these factors, rather than race, are taken into consideration systematically in making admission decisions. These analyses fail to provide evidence that any of the three factors, when used independent of or without knowledge of race, would result in an admitted-student pool that mirrors the ethnic diversity achieved under current admission practice.

A. Socioeconomic Status Analyses

Some commentators have suggested using SES as an appropriate diversity factor.⁹⁵ Rather than focus on the broader question of whether it should be an additional factor in law school admission decisions, the analyses undertaken here focus on whether SES could function as a surrogate for ethnicity or otherwise ensure an ethnically diverse student body without the use of ethnicity as a specific factor at all.

There is no universally accepted index of SES, but parents' or father's occupation or education and family income are among the most frequently used surrogates. For these analyses, an SES index generated from five standard indicators of SES—mother's occupation, father's occupation, mother's education, father's education, and approximate level of family income at the time the respondent was in high school—were used. The data were self-reported by Fall 1991 first-year students who participated in the *LSAC Bar Passage Study*.⁹⁶ The index was generated using a cluster analysis methodology.⁹⁷ The goal of the cluster analysis was to develop an index that would classify each responding student into a definable, homogeneous SES category. Four SES clusters of approximately equal size were found, and are defined as follows:

Affirmative Action, N.Y. Times, June 21, 1995, at A14 (describing suggestion of University of California regent to use "poverty and 'life experiences'" as factors).

⁹⁵ See sources cited supra note 94.

⁹⁶ See supra note 8.

⁹⁷ For a technical description of the statistical methodology used to develop this SES index, see Wightman, supra note 11, at 10 n.14.

Upper. Both mothers and fathers of students in this group had graduate or professional training and held professional jobs. The level of education and the level of occupation are virtually identical for both the parents of these students.

Upper-Middle. Fathers in this group tend to be professional workers, but mothers are white-collar workers or homemakers. Fathers of these students are also likely to hold graduate or professional degrees, while mothers tend to have associate or bachelor's degrees, but no graduate or professional training.

Middle. Fathers of students in this group tend to hold white-collar nonprofessional jobs, while mothers tend to hold a mix of blue-collar and white-collar nonprofessional jobs. Additionally, fathers of students in this group have some college experience, with many holding an associate's degree. Mothers tend to have less education than fathers, but at least a high school diploma. Students in this and each of the higher SES groups reported average to above average family income when they were in high school.

Lower-Middle. Both mothers and fathers of students in this group tend to be blue-collar workers and are not college educated. Many have less than a high school education. Additionally, students in this group described their family income when they were in high school as below average.

One limitation of the analyses presented here is that SES data are available only for the admitted students, not for all applicants. Thus, SES cannot be added as a variable to the mathematical models of law school admission, which were developed using data from all applicants. As alternatives, the SES distribution by ethnic group, the mean LSAT scores and UGPAs by SES group within ethnic group, and the impact of weighting SES factors on the predicted admission status of the Fall 1991 first-year students were examined.

The SES breakdown by ethnic group and predicted admission status is shown in Table 9. These data do not show statistically significant differences between predicted "Admit? Yes" and "Admit? No" categories across SES group for any ethnic group.⁹⁸ For example, the data show that 90% of upper-SES black students would not have been admitted compared with 92% of lower-middle-SES black students. Although the percentages are dramatically different, the pattern is the same for white students. That is, 20% of upper-SES white students would not have been admitted compared with 19% of lower-middle-SES students. These data suggest that schools are not currently plac-

⁹⁸ The χ^2 value for white students is statistically significant as a consequence of the large sample size, but the effect size $w = .03$, suggesting no practical significance. See supra note 52 (explaining effect size).

ing special consideration or weight on SES factors in the admission process.

Mean LSAT score and mean UGPA by SES and ethnic group, shown in Table 10,⁹⁹ add complexity to the question of what role SES might play as a factor in admission decisions. For each ethnic group except Puerto Rican, the data tend to show a steady decline in LSAT score across SES groups.

This same trend is not present within UGPA data. It is tempting to interpret a linear relationship between SES and test scores, like the one evidenced in Table 10, as evidence of cultural bias in standardized admission tests. There are alternative explanations for the observed relationship. One such explanation is the statistically significant relationship that exists between selectivity of undergraduate school and SES,¹⁰⁰ which suggests that the observed differences in test scores may reflect differences in educational opportunity. Untangling these explanations is beyond the scope of this study and needs to be the subject of separate research efforts. The relevant issue for the purpose of this study is that the differences exist consistently within each ethnic

⁹⁹ The standard deviations for the means shown in Table 10 are as follows:

TABLE N6

Ethnic Group	<u>SD UGPA</u>				<u>SD LSAT</u>			
	SES Group				SES Group			
	Upper	Upper-Middle	Middle	Lower-Middle	Upper	Upper-Middle	Middle	Lower-Middle
American Indian	0.42	0.48	0.40	0.51	5.80	5.41	5.25	6.74
Asian American	0.40	0.43	0.41	0.40	5.75	5.68	5.45	5.23
Black	0.43	0.38	0.45	0.43	6.00	6.33	5.51	5.76
Hispanic	0.44	0.41	0.42	0.40	5.55	5.79	5.80	6.56
Mexican American	0.40	0.40	0.42	0.38	4.71	5.54	4.90	5.77
Puerto Rican	0.39	0.47	0.39	0.39	4.11	7.42	6.73	6.17
White	0.39	0.40	0.40	0.41	5.00	5.12	4.95	5.06

The sample sizes for the means shown in Table 10 are as follows:

TABLE N7

Ethnic Group	SES Group			
	Upper	Upper-Middle	Middle	Lower-Middle
American Indian	32	16	25	69
Asian American	277	322	239	247
Black	488	142	280	937
Hispanic	114	123	133	241
Mexican American	74	57	96	284
Puerto Rican	24	27	35	79
White	5,424	5,762	6,247	5,002

¹⁰⁰ See Wightman, *supra* note 30, at 16 & 19 n.17.

TABLE 9
DISTRIBUTION OF FALL 1991 FIRST-YEAR LAW STUDENTS BY
ETHNIC GROUP, PREDICTED ADMISSION DECISION, AND SES

Ethnic Group	Predicted Admission Decision	SES			
		Upper	Upper-Middle	Middle	Lower-Middle
American Indian	Yes	8 25.00*	4 25.00	6 24.00	17 24.64
	No	24 75.00	12 75.00	19 76.00	52 75.36
Asian American	Yes	109 39.35	147 45.65	91 38.08	88 35.63
	No	168 60.65	175 54.35	148 61.92	159 64.37
Black	Yes	50 10.25	14 9.86	21 7.50	79 8.43
	No	438 89.75	128 90.14	259 92.50	858 91.57
Hispanic	Yes	41 35.96	53 43.09	56 42.11	73 30.29
	No	73 64.04	70 56.91	77 57.89	168 69.71
Mexican American	Yes	10 13.51	8 14.04	19 19.79	30 10.56
	No	64 86.49	49 85.96	77 80.21	254 89.44
Puerto Rican	Yes	3 12.50	5 18.52	10 28.57	7 8.86
	No	21 87.50	22 81.48	25 71.43	72 91.14
White	Yes	4,342 80.05	4,455 77.32	5,054 80.90	4,061 81.19
	No	1,082 19.95	1,307 22.68	1,193 19.10	941 18.81

* Percent shows within group column percentages.

group, suggesting that, to the extent that SES receives weight as an admission factor, the applicants within each ethnic group who would be the beneficiaries of the extra consideration would be those who demonstrate less of the acquired skills measured by the test when compared with applicants from higher SES groups within the same ethnic group.

A second striking feature of the data presented in Table 10 is the difference in both LSAT score and UGPA among ethnic groups within the same SES group. The pattern among the ethnic groups is similar within each SES group. Among upper-SES students, for example, white students earned the highest mean LSAT score and black students the lowest. The data also show that the mean LSAT for upper-SES black students is more than one standard deviation below the mean for lower-middle-SES white students. In combination, these observations suggest that use of SES as a quantified factor in the admis-

TABLE 10
LSAT AND UGPA MEANS BY ETHNIC GROUP AND SES FOR FALL
1991 FIRST-YEAR LAW SCHOOL STUDENTS

Ethnic Group	Mean UGPA				Mean LSAT			
	SES Group				SES Group			
	Upper	Upper-Middle	Middle	Lower-Middle	Upper	Upper-Middle	Middle	Lower-Middle
American Indian	2.86	2.93	3.00	2.94	34.70	31.76	31.17	31.72
Asian American	3.26	3.21	3.19	3.16	37.16	37.09	35.60	34.17
Black	2.87	2.79	2.87	2.87	30.62	30.66	28.20	27.51
Hispanic	3.16	3.14	3.09	3.14	34.95	34.55	34.16	31.63
Mexican American	3.08	2.99	3.02	3.02	34.78	33.80	33.78	31.24
Puerto Rican	3.00	3.01	3.10	3.01	32.15	32.94	33.93	29.91
White	3.27	3.24	3.23	3.29	38.31	37.90	36.95	36.24

sion process without consideration of ethnicity has the potential of giving preference to applicants who are likely to be at higher risk in terms of minimum academic credentials. If SES is quantified and then weighted, it has the potential to foster admission decisions that would result in a disparity in LSAT scores between admitted white applicants and admitted applicants of color that is even wider than the disparity reported in Table 10. Limited empirical evaluation of these possibilities was conducted using the Fall 1991 first-year law student data.

In order to evaluate the impact on both the number of students for whom the admission decision would change and the relative strength of their application credentials, various weights for SES were added to the admission probability estimates generated for the Fall 1991 first-year students. The weighted probability for each student was then compared to the original minimum admission criterion, and revised admission decisions were simulated. More specifically, if the SES category were upper or upper-middle, no additional weight was added to the probability generated by the model. For those students, probability of admission was a function only of LSAT and UGPA in combination, using the logistic regression parameters developed for the school that each attended. As before, the simulated admission decision was a result of comparing the probability calculated for the student to the lowest probability for that school among applicants defined as admitted by the model. Weighted values were added to the probabilities for students classified as middle and lower-middle SES before the simulated admission comparison was made. Even after applying weights that had the effect of adding a value as large as .075 to the probability of middle-class applicants and .1 to the probability of

lower-middle-class applicants,¹⁰¹ only 57 applicants from all ethnic groups were added to the predicted-to-be-accepted category. Among those, 82% (47 students) were black, and this group included black students with significantly lower LSAT scores and lower UGPAs than those of black students not admitted under the model. Doubling the weight would increase the number of black students predicted to be admitted to 103, and the number of other students of color predicted to be admitted to 27. Within each group, those students predicted to be admitted solely as a result of applying these extreme SES weights had mean LSAT scores and UGPAs significantly lower than the scores of those students from the same ethnic group whose decision status did not change. Specifically, the mean LSAT score for those black students whose predicted admission status would change from not admitted to admitted is 23.64 compared with a mean of 28.54 for those who remain classified as not admitted. The mean UGPAs for those same groups of black students are 2.75 and 2.85 respectively. These data serve as a stark reminder that there is still much about the inter-relationships among cultural diversity, SES status, educational opportunity, and performance on standardized tests that is not understood. More importantly, the data demonstrate the importance of carefully evaluating the impact of formulaically including alternative admission factors. Such an evaluation should include measures of overall consequences, particularly with regard to the overall academic preparedness of the affected applicants and the apparent fairness among applicants within the same ethnic or other targeted diversity group.

B. Undergraduate School Selectivity Analyses

Another factor that can be included in a law school admission model is the quality of the degree-granting undergraduate school. Some of the characteristics of the applicants' undergraduate schools may be related to both LSAT score and UGPA. For example, a lower UGPA from a more selective or more competitive undergraduate school might reflect a higher level of achievement than a higher UGPA from a less selective school. There are anecdotal suggestions that, among the factors they consider, some law schools currently include an estimate of the quality of undergraduate school based on the mean LSAT of test takers from that school, but the exact procedures

¹⁰¹ For example, a middle-class applicant whose probability of admission was .40 before weighting had a probability of .475 after weighting. Likewise, a lower-middle-class applicant whose probability of admission was .40 before weighting had a probability of .50 after weighting.

that they use are not publicly available.¹⁰² For this study, undergraduate school selectivity was classified as very high, high, medium, and low using the selectivity categorization assigned by Alexander Astin, Eric Dey, William Korn, and Ellyne Riggs.¹⁰³ The selectivity index they developed to define strata for four-year colleges and universities is an estimate of the mean score of entering freshmen on the verbal and quantitative portions of the SAT, or the converted equivalents of the American College Test (ACT) composite.

The undergraduate school selectivity analyses conducted for this study were based on the 1990-1991 applicant data, in contrast to the SES analyses that were, by necessity, based on the Fall 1991 entering class data. Data from the 1990-1991 applicants suggest that selectivity of undergraduate school is not independent of ethnic group. The statistical significance is attributable primarily to the attendance patterns of Asian American students, who attended very-high- and high-selectivity undergraduate schools in a significantly higher proportion than students in any other group. The data also show that within each undergraduate school selectivity group, ethnic group is statistically independent of actual admission decision, but is not independent of the decision predicted by the LSAT/UGPA-combined logistic regression model.¹⁰⁴ The distribution of the 1990-1991 applicants by ethnic group, predicted admission decision, and undergraduate school selectivity is shown in Table 11. Specifically, within each selectivity index group, Table 11 shows that the proportion of white applicants predicted by the regression model to be admitted is significantly greater than the proportion predicted for any other ethnic group. These findings are consistent with the data reported previously by showing that the mean LSAT and UGPA for white applicants is significantly higher than the means for any other ethnic group except Asian Americans. These data also show that in actual admission decisions within each ethnic group, applicants from more highly selective undergraduate schools are no more likely to gain admission to law school than are applicants from less selective schools. In contrast, when the predicted admission decisions derived from the logistic regression model are considered (again within ethnic group), applicants from the more

¹⁰² See, e.g., *supra* note 34 (quote stating NYU's policy to consider competitiveness of undergraduate school).

¹⁰³ See Alexander W. Astin et al., *American Council on Educ., The American Freshman: National Norms for Fall 1991*, at 94-95 (1991) (presenting statistical portraits of students entering college).

¹⁰⁴ A chi-square test of independence shows the relationship between ethnic group and predicted admission decision to be both statistically ($p < .001$) and practically significant for each undergraduate-school-selectivity index category. The effect size w ranges between .25 and .29 among the four categories examined. See *supra* note 52 (explaining effect size).

highly selective undergraduate schools are predicted to be admitted in greater numbers than applicants from less selective schools.

Two conclusions can be drawn from these analyses. First, the data suggest that undergraduate school selectivity is not an important factor in current admission practice. That is, undergraduate school selectivity is statistically independent of actual admission decisions. Second, the data do not support using undergraduate school selectivity as an additional quantitative factor to increase the ethnic diversity of the admitted applicants in an admission model that relies exclusively on LSAT score and UGPA. Support is absent partly because, within each ethnic group, the proportion predicted to be admitted already is higher among the higher selectivity schools than among the middle or lower selectivity schools and partly because, within each selectivity group, the mean LSAT scores and UGPAs of white applicants predicted not to be admitted exceed those of the applicants of color. The most frequently observed consequence of adding undergraduate school selectivity to the admission model is to advantage white applicants from higher selectivity schools over any applicants from lower selectivity schools.

C. Undergraduate Major Analyses

The final potential admission factor examined was undergraduate major area. These data analyses were undertaken to examine whether members of different ethnic groups are more likely to be clustered in specific major groups, whether ethnic group members might be differentially admitted from different major areas, and finally, whether the difference in probability of admission between white applicants and applicants of color diminishes after controlling for undergraduate major area. Seven major areas were identified from undergraduate major information self-reported by law school applicants: arts/humanities, computer science, natural science, health professions, business/management, engineering, and social science. Again, these analyses were based on the full 1990-1991 applicant pool. The results indicate that ethnic group membership is independent of undergraduate major category. Thus, there is no support for the hypothesis that members of certain ethnic groups tend to be clustered in specific undergraduate major areas.

Within each undergraduate major category, ethnic group is independent of actual admission decision, but not independent of predicted admission decision.¹⁰⁵ Table 12 shows the distribution of 1990-

¹⁰⁵ A chi-square test of independence shows the relationship between ethnic group and predicted admission decision to be both statistically ($p < .001$) and practically significant

TABLE 11
DISTRIBUTION OF 1990-1991 LAW SCHOOL APPLICANTS BY ETHNIC
GROUP, PREDICTED ADMISSION DECISION, AND UNDERGRADUATE
SCHOOL SELECTIVITY

Ethnic Group	Predicted Admission Decision	Undergraduate School Selectivity			
		Very High	High	Middle	Low
American Indian	Yes	17	39	27	63
	No	33.33*	38.24	27.84	29.03
Asian American	Yes	34	63	70	154
	No	66.67	61.76	72.16	70.97
Black	Yes	448	496	261	240
	No	51.44	40.69	34.80	34.88
Hispanic	Yes	423	723	489	448
	No	48.56	59.31	65.20	65.12
Mexican American	Yes	115	124	127	329
	No	14.50	10.10	8.28	10.08
Puerto Rican	Yes	678	1,104	1,406	2,935
	No	85.50	89.90	91.72	89.92
White	Yes	97	239	148	191
	No	44.91	34.79	28.14	23.82
	Yes	119	448	378	611
	No	55.09	65.21	71.86	76.18
	Yes	35	82	60	75
	No	32.71	24.77	24.79	19.04
	Yes	72	249	182	319
	No	67.29	75.23	75.21	80.96
	Yes	24	26	23	28
	No	21.62	19.55	14.65	13.86
	Yes	87	107	134	174
	No	78.38	80.45	85.35	86.14
	Yes	6,798	10,948	10,862	10,726
	No	64.95	58.81	53.20	51.15
	Yes	3,669	7,668	9,554	10,244
	No	35.05	41.19	46.80	48.85

* Percent shows within group column percentages.

1991 applicants by ethnic group, predicted admission decision, and undergraduate major category. As was the case for the undergraduate-school-selectivity index groups, within each undergraduate major area group, the proportion of white students predicted to gain admission was significantly greater than the proportion in any other ethnic group. For example, 56% of white applicants who were social science majors are predicted to be admitted, compared to 9% of black social science major applicants. This finding is not independent of the significantly higher LSAT scores and UGPAs earned by white students in each of these groups. Thus, these analyses suggest that targeting specific undergraduate major areas in the admission process will not significantly increase the number of potential students from any specific

for each undergraduate major area. The effect size w ranges between .19 and .29 among the seven major areas examined. See *supra* note 52 (explaining effect size).

ethnic group. Additionally, the data show that even when undergraduate major area is held constant, the proportion predicted to be admitted to law school is significantly higher for white applicants than it is for applicants of color.

TABLE 12
DISTRIBUTION OF 1990-1991 LAW SCHOOL APPLICANTS BY ETHNIC
GROUP, PREDICTED ADMISSION DECISION, AND
UNDERGRADUATE MAJOR

Ethnic Group	Predicted Admission Decision	Undergraduate Major						
		Arts/ Humanities	Computer Science	Natural Science	Health Professions	Business/ Management	Engineering	Social Science
American Indian	Yes	32	1	7	3	31	7	68
	No	34.41*	100.00	43.75	25.00	28.44	43.75	29.96
Asian American	Yes	61	0	9	78	9	159	
	No	65.59	0.00	56.25	75.00	71.56	56.25	70.04
Black	Yes	264	27	84	14	419	91	563
	No	40.06	46.55	39.07	35.00	45.89	33.33	39.10
Hispanic	Yes	395	31	131	26	494	182	877
	No	59.94	53.45	60.93	65.00	54.11	66.67	60.90
Mexican American	Yes	140	8	31	8	163	25	312
	No	10.91	11.27	15.35	5.19	10.77	13.23	9.28
Puerto Rican	Yes	1,143	63	171	146	1,351	164	3,050
	No	89.09	88.73	84.65	94.81	89.23	86.77	90.72
White	Yes	133	2	21	4	195	26	299
	No	33.93	16.67	45.65	28.57	33.39	35.62	27.06
	Yes	259	10	25	10	389	47	806
	No	66.07	83.33	54.35	71.43	66.61	64.38	72.94
	Yes	56	1	9	1	54	6	127
	No	26.05	16.67	30.00	14.29	25.12	24.00	22.32
	Yes	159	5	21	6	161	19	442
	No	73.95	83.33	70.00	85.71	74.88	76.00	77.68
	Yes	24	1	8	0	20	2	46
	No	21.62	25.00	38.10	0.00	15.50	18.18	14.38
	Yes	87	3	13	6	109	9	274
	No	78.38	75.00	61.90	100.00	84.50	81.82	85.63
	Yes	8,274	223	1,748	476	10,077	1,309	17,335
	No	57.20	54.00	54.29	40.51	56.14	50.58	55.80
	Yes	6,190	190	1,472	699	7,872	1,279	13,731
	No	42.80	46.00	45.71	59.49	43.86	49.42	44.20

* Percent shows within group column percentages.

SUMMARY AND CONCLUSIONS

This study used a variety of statistical methods and law school application, admission, and performance data as well as bar examination performance data to empirically evaluate inquiries and assertions about affirmative action admission practices and outcomes in legal education. First, two models that use LSAT score and UGPA as

predictors of law school admission were developed.¹⁰⁶ These models were used to examine whether there continues to be a need for affirmative action admission practices in legal education to assure a qualified, ethnically diverse student body. The outcomes from these analyses confirmed that an admission model that relied on LSAT and UGPA (which captured quite accurately the admission decisions for white applicants made by law schools in 1990-1991) would result in a law school student body that mirrored the ethnic makeup of law schools of thirty years ago.¹⁰⁷

This study posits that a realistic admission model is one that evaluates probability of admission for each applicant separately for each of the schools to which applications were submitted. The procedure followed was to first model the data for white applicants and then, if the data fit the model, determine whether the model predicted decisions for applicants of color equally well. Logistic regression methods were used to build such a model. A separate regression model was developed for each law school using its own applicant data and admission decisions. This resulted in a weight that could be applied either to the LSAT score and UGPA used in combination or to the UGPA alone for each applicant such that the model would maximally predict the school's admission decisions. Evaluation of the models revealed that a two-variable prediction model fits the law school admission data very well. The correlation between actual and predicted admission decisions using the two-variable model for white applicants was .78 across all the law schools. Using the UGPA as the only predictor does not fit quite so well as the two-variable model; the correlation between actual and predicted admission was .49. The correlations between actual admission decisions and decisions predicted by the models were considerably lower for each nonwhite group of applicants, suggesting that factors other than LSAT and UGPA were included in admission decisions for applicants of color. Even more persuasive is the finding that the number of predicted admissions for each nonwhite group is significantly lower than the number of actual admissions. Applying these models produced an elegiac picture of predicted ethnic diversity in legal education. Results showed that only 41% of the students of color who were offered admission to law school during the 1990-1991 application year were predicted to be admitted by the two-variable logistic regression model. When Asian American applicants were excluded, the predicted admissions dropped to 32% of the actual admissions. The most adversely affected group of applicants would be

¹⁰⁶ See *supra* Part I.A.

¹⁰⁷ See *supra* Part I.B.

black applicants. Only 10% of those applicants who gained an offer of admission were predicted to have been admitted under this model.

The impact of a race-blind admission model was also evaluated using an alternative model that is conceptually and mathematically simpler. The alternative model collapses data across law schools and estimates the number of applicants from each ethnic group who would have been offered admission to at least one, but any one, of the 173 law schools included in the study. This model required the calculation of the proportion of admitted white applicants to total white applicants observed within various ranges of LSAT scores and UGPAs. These proportions were then applied to applicants of color within the same ranges of scores and grades. The LSAT and UGPA ranges were placed into a nine-by-eight grid, thus the method is referred to as the "Law School Grid Model." The results paralleled the data for the logistic regression model and showed that approximately 65% of the students of color who were offered admission to law school during the 1990-1991 application year were predicted to be admitted under the Law School Grid Model. When Asian American applicants (whose mean LSAT scores and UGPAs approximately equalled those of white applicants) were excluded, the predicted admissions dropped to 57% of the actual admissions. Once again, black applicants were the most severely affected. Only 23% of black applicants who gained an offer of admission were predicted to be admitted under this model.

The Law School Grid Model was developed primarily to evaluate the claim that affirmative action admission practices do not increase the overall number of minority law students, but simply allocate students of color differently among the law schools.¹⁰⁸ One limitation of the Law School Grid Model, as well as of the claim of differential allocation, is the assumption that students of color would be willing and able to attend the schools that are most likely to offer them admission. More than half of the black applicants in this study had LSAT scores lower than 35 and UGPAs less than 3.25. The data suggest that approximately three quarters of the white applicants with academic credentials in those ranges attended law schools that are among the more expensive and have the lowest percentages of minority students. These data cast doubt on the assumption that applicants of color could simply be reallocated to these law schools. The other group of schools that most frequently accepts students in those ranges reports minority enrollments of 50% or more. Given that no seats in these schools were left empty, and that the number of seats would be unlikely to increase, the lowest scoring applicants to these schools

¹⁰⁸ See Summers, *supra* note 13, at 384.

would likely lose their opportunity to attend law school if higher scoring applicants of color were reallocated. The net result remains the likely reduction of a substantial proportion of students of color in legal education.

The study next examined the issue of the appropriate use of the LSAT score and UGPA in the admission process.¹⁰⁹ Frequently, objections to the use of these measures in the admission process are raised within the context of validity, particularly validity of the LSAT. This study reviews available data to explain the purpose for which the test is valid and the substantial evidence that exists to support that validity. The study also presents data to support the validity of the test specifically for black, Hispanic, and Mexican American applicants. The final discussion of inappropriate use and overreliance on these measures focuses on data from the *LSAC Bar Passage Study*.¹¹⁰ These data are used to illustrate some outcomes of current law school admission practices and to compare them with admission practices that would result from relying solely on LSAT and UGPA. Analyses of the *LSAC Bar Passage Study* data show first that law school graduation is statistically independent of admission predicted from LSAT and UGPA for every ethnic group. They also show that when a separate logistic regression model is built for each law school (i.e., LSAT and UGPA are used to predict whether graduation will or will not occur) these two variables are not significant predictors of graduation. Additionally, analyses of these bar passage data demonstrate that a logistic regression model that predicts bar passage from LSAT score and UGPA does not fit the data nearly as well as the model to predict law school admission does. The correlation between predicted and actual bar passage is .30. The same data also show that for most, but not all, ethnic groups, there is a statistically significant relationship between passing a bar examination and predicted admission to law school.

The final section of the study examines other factors that might be included in an admission model to analyze the impact including such factors might have on the ethnic distribution of the admitted applicants.¹¹¹ Three factors are examined: socioeconomic status, selectivity of the degree-granting undergraduate school, and undergraduate major. None of these factors showed promise for helping to identify an ethnically diverse group of qualified students. Evaluation of the SES data, in particular, highlights the dilemma of

¹⁰⁹ See discussion *supra* Part II.

¹¹⁰ See *supra* note 8 and accompanying text.

¹¹¹ See discussion *supra* Part III.

employing a surrogate for race in the admission process. When students were separated by SES group, using self-reported measures of SES, the data showed that the lowest SES students within each ethnic group reported the lowest LSAT scores. One consequence of applying sufficient weight to SES to change the predicted admission decision for some students is that the students who would be admitted under an SES-weighted model would have LSAT scores and UGPAs that are statistically significantly lower than the scores and grades of other students in the same ethnic group who would not be admitted. This practice would have the effect both of admitting students of higher academic risk and of widening the gap in academic preparation between admitted white students and admitted students of color.

In summary, the data presented in this study provide bleak prospects for continued ethnic diversity in legal education if admission decisions depend on a model defined exclusively by LSAT score and UGPA or, by extension, an admission practice that yields results that parallel those predicted by an LSAT/UGPA model. The inappropriateness of relying on those two quantitative indicators of acquired academic skills is not a consequence of their overall lack of validity for the purpose for which they are intended, and, in fact, data are reported and cited herein to unequivocally support that validity. The issue rather rises from an inappropriate use of those measures that results not only in a loss of validity but systematic and predictable discriminatory selection in our nation's law schools. Neither LSAC, as the developer of the LSAT, nor the law schools, as users of the scores and gatekeepers of the profession, should tolerate such abuse.

Post Hopwood / SP-1 / Prop. 209 Admissions Cases in California and Texas

Recipient	Complainant(s)	Scope of Investigation	Status	Contact Point
1. University of California	Equal Rights Advocates MALDEF LDF NAACP California Woman's Law Center	Disparity in admit rate under our current admissions policies and procedures at 3 law schools (Boalt, Davis and UCLA). Will investigate whether neutral admissions criteria have a discriminatory impact upon African American and Hispanic/Latino and American Indian students at Boalt and UCLA. More schools/issues may be added as data is evaluated.	Complaint filed March 1997. Evaluation letter. initiating investigation issued July 11. Initial data request and investigative plan reviewed in consultation with GC. Introductory meetings with three law schools held August 14, 15 and 18. We are continuing to provide information to DOJ about the status of the investigation through AA Task Force. On August 18 - met w/HHS OCR to discuss possible research & other expertise they may be able to provide on medical school admissions. Final medical school admit data will be available in mid September.	Cathy Lewis 205-8130 Enforcement Director (A) - West
2. Texas Higher Ed. Coordinating Board	Rocky Mountain Black Law Students Assoc. (mostly University of Houston students)	(a) Allegation of Title VI violation for failure to honor commitments of OCR desegregation plan. (b) Allegation of Title VI violation for continuation of dual system of higher education.	Complaint filed Oct. 1996. Complaint is open. Will be investigated as OCR pursues its <u>Fordice</u> investigation in Texas. DOJ staff member is part of OCR investigative team. Conversation with representative of RMBLSA and receipt of information prior to on-site. On-site at Texas A&M took place week of August 4-8. Next on-site Prairie View in September. Data request will be sent by 8/15.	Susan Bowers 205-5596 Enforcement Director, East

NO. 2851 P. 2

OFFICE OF SECRETARY

AUG. 15, 1997 3:37PM

AGENDA

MINORITY ENROLLMENT IN HIGHER EDUCATION MEETING

AUGUST 13, 1997

SUMMARY

The Administration is investigating options to ensure diversity in higher education in light of some of the effects of the Hopwood decision and the University of California Board of Regents' decision to exclude race as a factor in admissions. Two approaches to the problem are being pursued simultaneously: (1) litigation to reverse the decision and/or law and (2) policy initiatives to improve diversity in higher education. This meeting is not concerned with the litigation strategy, but rather with some possible policy initiatives that could be implemented both long-term and short-term.

I. ACTIONS BEING TAKEN IN CALIFORNIA AND TEXAS

A. CALIFORNIA

- Forming "school-centered partnerships" among each UC campus and public schools chosen for their poor academic performance, to establish standards and to improve student achievement. *grad/dropout rate*
Teacher Professional Development in key subjects
Summer/after school all schools
- Expanding academic outreach programs for K-12 students. *Teacher / recruitment*
Info on profs in coll & acad courses
Intensive mentoring & summer programs
preparation
566 subjects
- Creating an "information outreach" program to help students and their families prepare for college. *Public information campaign - parents, students, teachers, etc.*
- **Alternative admissions strategies.** A June 24, 1997 article in the Sacramento Bee set out how each of UC's nine campuses will "experiment" with different admissions policies in an effort to achieve diversity. **UC-Davis:** in filling 40% of the places in its 1998 freshman class, UC-Davis will give weight to factors other than grades and test scores such as extracurricular leadership experience; attendance at a high school that is economically disadvantaged and has a historically low level of UC attendance; residence in the three counties closest to the university; military service; and marked academic improvement in the 11th grade. The new policy is only triggered, however, by students who meet UC minimum eligibility requirements of a combined 1000 on the SAT and a high school grade-point average of 2.82 in designated college preparatory courses.

UCLA: will give an advantage to applicants from disadvantaged urban and rural neighborhoods. **UC Irvine:** will look at an applicant's entire profile, not just grades and scores, including personal essays and extracurricular activities. **UC San Diego:** will look at "special circumstances and personal challenges" which could include whether an applicant is trying to become the first in his or her family to attend college.

- A July 9, 1997 Education Daily article says that the UC Task Force's \$60 million dollar plan to increase minority enrollment at UC would make training and retaining teachers in disadvantaged schools a priority. The Task Force estimates the total cost of professional development at \$18.5 million annually or about \$370,00 at each of 450 schools --the disadvantaged high schools, plus 400 "feeder" elementary and middle schools. On July 17, 1997, a Board of Regents committee approved the plan to double UC's annual spending on outreach efforts--which seek to increase minority enrollment without using affirmative action--from \$60 million to \$120 million. The \$60-million additional cost projection for the program includes \$27.2 million for school outreach efforts, \$17.9 million for expanding academic programs that target black and Latino students but are open to all, and \$7.9 million for contacting students, families and schools about UC admissions requirements.

B. TEXAS

- The Texas legislature passed a bill that automatically admits the top 10% of all Texas high schools students to the state's university system.
 - Ethnic Recruitment Program in which Texas residents may apply for grants up to \$1,000. Applicants must have a 2.75 GPA and 900 SATs. The awards may be used at any school in which their minority group constitutes less than 40% of total enrollment. [The Big Book of Minority Opportunities]

II. POSSIBLE FUTURE ACTIONS THAT CAN BE TAKEN ACROSS THE COUNTRY

A. PRE-KINDERGARTEN

- Revamp HeadStart to become more focused on school readiness and reading skills.

B. KINDERGARTEN THROUGH GRADE 8

- Teacher Recruitment and Preparation initiative proposed under Title V of HEA.

C. HIGH SCHOOL

D. ACCESS OPPORTUNITIES

POSSIBLE TIME TABLE



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

July 18, 1997

NOTE TO: MICHAEL MCCURRY
WHITE HOUSE PRESS SECRETARY

FROM:  LESLIE T. THORNTON
CHIEF OF STAFF

SUBJECT: MINORITY ENROLLMENT ISSUES IN CALIFORNIA

As I discussed with you briefly after the President's speech to the Black Journalists Convention in Chicago, I have provided some general background on the issue of minority admissions and enrollment declines in California. It is divided into information regarding: (1) the UC Outreach Task Force; (2) recent complaint filed by civil rights groups with the Department of Education's Office for Civil Rights; and (3) proposals for response.

UC TASK FORCE ON ADMISSIONS

- In July 1995, the University of California Board of Regents established what they call the "University of California Outreach Task Force" to identify ways in which outreach "could be employed to help the University be accessible to students of diverse backgrounds." This Task Force was developed in response to the Regents' decision to exclude race as a factor of consideration in admissions at California's public colleges and universities. Note that it is the Regents' decision that is currently in effect and affecting minority enrollment in California -- Prop. 209 is stalled in the courts.
- According to the report's executive summary, the Task Force began its deliberations in February 1996 and reviewed the University's current outreach goals, strategies, programs, and activities. The Task Force also collected statewide and national data on student achievement and the affects of outreach programs aimed at college readiness. The data revealed that a significant obstacle to expanding minority enrollment in higher education is "educational disadvantage."
- On May 16, 1997, the UC Task Force released a draft report for public comment. The report argues the university must focus on educational disadvantages -- not low income -- and that poor-performing schools are a better indicator than income of who needs help. The panel's recommendations include: (1) forming "school-centered partnerships" among each UC campus and public schools chosen for their poor academic performance, to establish standards and improve student achievement; (2) expanding academic outreach programs for K-12 students; and (3)

creating an "information outreach" program to help students and their families prepare for college. The state and university allocated \$3.5 million for the 1997-98 school year to implement the plan but educators say it will cost tens of millions of dollars more to be successful. **The plan has been in a public comment period and each UC chancellor is required to submit a detailed plan by January 1, 1998.**

- In a June 24, 1997, *Sacramento Bee* editorial called **"Beyond the numbers: UC Admissions to consider human qualities, too"**, the paper set out how UC's nine campuses are actively looking for other ways to compose student bodies that reflect the state's growing diversity. According to the article, each of UC's nine campuses will "experiment" with different admissions policies in an effort to achieve diversity. Each will examine a variety of personal circumstances and accomplishments in addition to grades and scores. For example, UC-Davis will offer 60 percent of the 3,700 places in its 1998 freshman class to applicants with the highest grades and tests scores. But in filling the remaining 40 percent, the admissions office will give weight to other factors including extracurricular leadership experience; attendance at a high school that is economically disadvantaged and has a historically low level of UC attendance; residence in the three counties closest to the university; military service; and marked academic improvement in the 11th grade. Still, the new policy calls for consideration only of students who meet UC minimum eligibility requirements; a combined 1,000 on the SAT and a high school grade-point average of 2.82 in designated college preparatory courses. UCLA will give an advantage to applicants from disadvantaged urban and rural neighborhoods. UC Irvine will look at an applicant's entire profile, not just grades and scores, including personal essays and extracurricular activities. UC San Diego will look at "special circumstances and personal challenges" which could include whether an applicant is trying to become the first in his or her family to attend college. Editorial argues these policies may make the admissions process more complicated but weighing human factors may be a better way of measuring than just tests and scores.
- A July 9, 1997 *Education Daily* article called **"To Raise Minority Admissions, Task Force Looks To Teachers"** reviews UC's look at teachers – particularly interesting given the President's announcement on Title V. The article says that UC Task Force's \$60 million dollar plan to increase minority enrollment at UC would make training and retaining teachers in disadvantaged schools a priority. The Task Force estimates the total cost of professional development at \$18.5 million annually or about \$370,000 at each of 450 schools – the disadvantaged high schools, plus 400 "feeder" elementary and middle schools. UCS Board of Regents was to vote last week on the proposal. The report says the need for new teachers in disadvantaged schools is "especially acute" because of high turnover rates.

CALIFORNIA CIVIL RIGHTS COMPLAINT

(OCR's Talking Points on Graduate Admissions Complaint Against the University of California)

- On March 19, 1997 a broad coalition of private civil rights organizations filed a complaint against the University of California System alleging discrimination in admissions to graduate and professional schools in violation of Title VI of the Civil Rights Act of 1964 (race and ethnicity) and Title IX of the Education Amendments of 1972 (sex). OCR regulations require the investigation of complaints that raise discrimination issues under Title VI or Title IX.
- OCR has evaluated admit data from the three UC law schools. This preliminary statistical data shows that under the admissions policies currently in use, there is a significant disparity in the admission rate for Hispanic/Latino, African American, American Indian and Asian candidates at Boalt Hall and UCLA and for Hispanic/Latino, African American and American Indian candidates at Davis when compared to whites. There is no similar disparity at these three law schools for women.
- Much of the press coverage this year has focused on the drop in the number of minority candidates admitted since affirmative action has been discontinued. Technically, OCR is not investigating the decline in the number of minority students offered admission absent affirmative action. The UC system is not required under Title VI to have an affirmative action program. What OCR is investigating is whether the current admissions policies have a discriminatory impact on certain minority group students.
- However, the difference in admit rates does provide a basis upon which to initiate an investigation of whether the admissions policies and procedures currently in use at Berkeley, Davis and UCLA Law Schools violate Title VI and its implementing regulations.
- **As admissions data for the 1997-98 school year become available for other graduate and professional schools, OCR may identify additional graduate and professional schools for investigation.**
- OCR is not investigating the academic objectives of any graduate level admissions program or the content of standardized tests, such as the LSAT.
- The complaint does not directly challenge the adoption of SP-1 under Title VI and Title IX; however, it does challenge the admissions practices that were put into

place in response to the resolution. (SP-1 was approved by the Board of Regents in July 1995 and states that race, ethnicity or gender shall not be used as criteria for admission to the university. The admissions policies for UC graduate and professional schools were modified by SP-1 as of January 1, 1997, affecting admissions for fall 1997.)

PROPOSED ANSWER FOR POTUS

As you know, in some ways it is no matter to many people that the President's Racial Reconciliation Initiative was launched just last month – many are already critical that there are no concrete ideas/plans yet. However unfair the criticism is, it might be helpful for the President to talk about some concrete things where he can and invite the public to participate in the effort – this is an effort that will take all of us working on.

When the President is asked or talks about what is happening in California, he could mention some of the things the UC system itself is doing (see reference to 6/24/97 *Sacramento Bee* and 7/9/97 *Education Daily* articles) and invite people to engage in the process by participating in the public comment period. I believe this can be done through the Internet as well as in writing but that should be checked as well as the end date of the public comment period. I believe it may have been expanded from the original June 6 deadline but if not, there are other deadlines the Task Force is working under which appear to accommodate public participation.

We should all be careful how we talk about the OCR complaint filed by civil rights groups as it is an ongoing investigation. My view is that however it is determined, it must stand on its own and not be subject to charges that it has been politically influenced. On the other hand, however it comes out, now that it has been filed, the complaint has afforded the Department an opportunity to look at these issues at a depth level beyond such a look from purely a policy perspective. To that extent, some of the information in OCR's talking points might also be useful to convey.

12. Education Daily

July 10, 1997

NEWSMAKER

Arthur Coleman has been named a deputy assistant secretary in the Education Department's Office

for Civil Rights, a newly created position. Coleman has served as the senior policy advisor to the assistant secretary

for civil rights for three-and-a-half years. ■

13. Education Daily

July 9, 1997

TO RAISE MINORITY ADMISSIONS, TASK FORCE LOOKS TO TEACHERS

A task force's \$60 million plan to increase minority enrollment at the University of California (UC) would make training and retaining teachers in disadvantaged schools a priority.

For the university system's outreach program to improve academic achievement at 50 poor-performing high schools, the task force says in a recent report, spending "must focus particularly" on improving the teaching of subjects required for UC admission.

While the task force acknowledged that factors such as poverty and parents' education level contribute to poor achievement, its report said teaching in the bottom fifth of "educationally disadvantaged" schools can be improved.

Among students who take the SAT, the average score in the bottom fifth of schools is 715, compared to 1007 in the top fifth.

The task force estimates the total cost of professional development at \$18.5 million annually, or about \$370,000 at each of 450 schools — the disadvantaged high schools, plus 400 "feeder" elementary and middle schools.

The governor's office and the state legislature committed about \$4 million annually for the university system's

outreach programs before the task force made its recommendations. The task force says the rest must be raised through a massive campaign by parents, schools and industry.

The UC board of regents is to vote next week on the proposal, which is a response to the university eliminating affirmative action in undergraduate admissions beginning this fall (ED, July 24, 1995).

The 35-member task force has outlined an ambitious program of "school-centered partnerships" between UC campuses and the disadvantaged secondary schools, where 80 percent of the students are minorities (ED, May 22).

Turnover Terrible And the group's spending guidelines unveiled last week emphasize the need for better-trained teachers in college preparatory subjects.

The report said the need for new teachers in disadvantaged schools is "especially acute" because of high turnover rates.

"Teachers in these schools are much more likely to be young and inexperienced and much more frequently teach outside their area of training," the report said. "Mathematics and science teachers are in especially short supply for disadvantaged schools."

The task force urges intensive four-week summer training for teachers, as well as school-based inservice training.

Expanding teacher training and retention programs would double the number of K-12 students who participate in outreach, the report says, by making better use of the university system's resources and passing along that information to students.

The plan also calls for \$7.9 million annually in informational outreach to families, and \$7.55 million per year for technology.

California voters last fall approved Proposition 209, which outlawed racial preferences in state hiring and state university admissions (ED, Nov. 7, 1996).

A three-judge federal appeals court panel upheld the ban because it treats all races neutrally, but supporters of affirmative action have appealed that ruling to the full U.S. Ninth Circuit Court of Appeals (ED, April 9).

To view the University of California outreach task force's draft report, visit the group's Web site at <http://www.ucop.edu/acadaff/otf/cover1.html> — Dave Boyer ■

62. Sacramento Bee

June 24, 1997

Beyond the numbers: UC admissions to consider human qualities, too

Following the University of California regents' decision to abolish race- and gender-based affirmative action programs, UC's nine campuses are actively searching for other ways to compose student bodies that reflect the state's growing diversity. The task is key not only for the university system but for the entire state, whose economic and social well being will depend on UC's ability to keep its doors open to a broad swath of capable students from all corners of the state and all backgrounds.

Sensibly, the nine campuses will each experiment with different admissions policies in an effort to achieve that diversity. In considering students for admission, each will examine a variety of personal circumstances and accomplishments in addition to grades and scores. It's a refreshing departure from the prior myopic focus on numbers and, in some instances, skin color.

UC Davis, for example, will offer 60 percent of the 3,700 places in its 1998 freshman class to applicants with the highest grades and test scores. But in filling the remaining 40 percent of the class, the admissions office will give

weight to other factors, including extracurricular leadership experience; attendance at a high school that is economically disadvantaged and has a historically low level of UC attendance; residence in the three counties — Sacramento, Solano and Yolo — closest to the university; military service; and marked academic improvement in the 11th grade.

Though this gives UC Davis some flexibility, the new policy calls for consideration only of students who meet UC minimum eligibility requirements: a combined 1,000 on the SAT and a high school grade-point average of 2.82 in designated college-preparatory courses.

UCLA will give an advantage to applicants from disadvantaged urban and rural neighborhoods. UC Irvine will look at an applicant's whole profile: not just grades and test scores, which the campuses in the past have relied upon so heavily, but also personal essays and extracurricular activities. UC San Diego will look at "special circumstances and personal challenges," which could include whether an applicant is trying to become the first in his or her family to

attend college.

These new efforts promise to make the admissions process much more complicated and, where the special considerations are concerned, subjective. In a public university system financed with taxpayer dollars, it could lend itself to controversy. But human factors can tell as much or more as numbers about a student's potential, and UC is right to weigh them.

There may need to be tuning. UC Davis may find that its special consideration of students from the three surrounding counties draws too small a circle. UCLA will probably discover that finding qualified candidates from the poorest high schools will require assisting those schools in preparing students for the UC workload — a task the university system has already identified as key to the success of maintaining a diverse student body without race preferences in admissions.

And with the future of the proposed Merced campus uncertain, the rest of the system must ensure that students from the Central Valley and the state's far reaches are given a fair shot. ■

Budget Summary Information
Urban Community Service Program
School, College, and University Partnership Program
Urban School, College, and University Partnership Program

Urban Community Service Program

The program addresses a very wide array of urban social problems. The administration has argued that efforts to solve the social and economic problems of urban areas are more appropriately addressed under programs and budgets of other federal and state agencies.

FY 1998

Administration request	0
House action to date	0
Senate action to date	\$4.9m

	FY 1997	FY 1996	FY 1995
Appropriation	\$9.2m	\$9.2m	\$10.0m
Administration request	0	0	\$10.5m

This program has been funded at close to the same levels since 1992. The administration has not sought funding for the Urban Community Service Program since Fiscal Year 1995.

School, College, and University Partnership Program

This program supported partnerships between institutions of higher education and secondary schools serving low-income students to support programs to improve academic skills of secondary school students, increase their opportunity to pursue a postsecondary education, and improve prospects for employment. Businesses and other organizations could also participate in the partnership.

The School College, and University Partnerships Program was funded in Fiscal Years 1988 through 1995. The administration requested funds for each of these years. The administration also requested funds for Fiscal Year 1996 (\$3.9m), but funds were not appropriated. Funding for the program has not been requested by the administration since FY 1996.

In the final three years of funding (FYs 1993-1995) funding was in the amount of \$3.9m. These funds supported continuation funding for incumbent grantees(non-competing continuations). The last year in which new awards were made under this program was 1992 when 14 new grants were made.

Urban School, College, and University Partnership Program

This new program will incorporate elements of both the School, College, and University Partnership Program, and the Urban Community Service Program. The administration has for some years recognized that the existing Urban Community Service Program has an overly broad and ambitious focus. However, a program which addresses the needs of urban education is considered critical in view of the serious needs confronting urban schools. Urban postsecondary institutions will remain eligible grantees under the new program.

The partnership model of the School, College, and University Partnership Program, along with the diminishing federal cost, are incorporated into the new program. Like the SCUP Program, this new program will foster partnerships between institutions of higher education, schools, businesses and community-based organizations.

If funded at \$20m, this program would support approximately 60 grants.

Urban School, College and University Partnerships Program

The purpose of this new program will be to establish lasting partnerships between urban institutions of higher education, community-based organizations and businesses, and urban elementary and secondary schools. Federal support will assist these partnerships in addressing systemic problems confronting urban schools and allow them to better serve their students.

Why a program with an urban focus

Urban schools face many problems common to schools generally, particularly those in areas of high poverty. In part, these include: poor academic preparation and low skill levels on the part of students, low educational aspirations, lack of parent involvement, and lack of good role models. In addition, schools in urban areas more than others are burdened with confronting a number of difficult social problems which spill over into the school environment such as violence, drug abuse, and crime. These problems are reflected in generally lower scores on achievement tests, higher dropout rates, and lower rates of attendance in college.

Many of our urban institutions of postsecondary education have a history of active involvement in the community to help alleviate urban social problems. This program builds upon and further supports the efforts these urban institutions have made. Because of their proximity to urban elementary and secondary schools, urban colleges and universities are uniquely situated to carry out the purposes of this program.

Target Schools

Those urban schools which have a high-percentage of under-performing students will be the focus of this program. Compared to other urban schools, the schools assisted will be those with the most compelling problems and the most in need of assistance beyond programs which are currently available.

Target Activities

The program will provide considerable grantee flexibility in addressing problems of urban education. However, the proposed statute includes known areas on which the partnership might work, such as: developing programs of counseling, mentoring, and tutoring; improving the use of technology; and developing programs for parental involvement. In order to make the program consistent with requirements of the Government Performance and Results Act, grantees will identify quantifiable criteria for selecting the partner schools and assess their performance against measurable goals.

Partnerships

The Urban School, College, and University Partnerships Program will target for award those urban colleges and universities that have a track record of working with their community. This program will assist these schools in furthering their partnering efforts. The partnership base will be further broadened by including community-based organizations, businesses, and other local groups. One of the measures established for the program is the continuation of these partnerships beyond the term of the grant. The program will promote long-term investment by urban colleges and universities, as well as businesses and community groups, in solving the problems of urban education.

Urban Community Partnership Program

The existing Urban Community Service Program will be reauthorized as the Urban Community Partnership Program. The new program will establish partnerships between urban institutions of higher education and urban elementary and secondary schools to improve the performance of these schools. The inclusion of additional partners such as businesses, community-based organizations, etc. will be encouraged.

This partnership program recognizes the important role that urban postsecondary institutions can play in their community to improve the performance of elementary and secondary schools and help students better prepare for postsecondary education and successful careers.

➤ Partnerships

A written partnership agreement will be included as part of an application under this program. This agreement will identify not only the individual partners, but the rationale for choosing the particular urban schools with which to work, as well as the educational issues the partnership will address.

➤ Activities supported under this program

Unlike the current Urban Community Service Program, this new partnership program will focus exclusively on addressing problems of urban education. Funds will be used to assist urban elementary and secondary schools having a high percentage of under-performing students to eliminate the barriers these schools face in achieving their educational mission.

Grantees will have considerable flexibility in the activities of the funded partnerships, such as program design and development, training, improving the use of technology, sharing resources, etc.

➤ Cost-sharing; grant duration

Federal funds will provide no more than 70 percent of the total costs of the project in the first year; 60 percent in the second year, and 50 percent in subsequent years. Partnerships may be funded for up to five years.

➤ Urban area; eligible urban institution

"Urban area" means a metropolitan statistical area having a population of not less than 350,000. To be eligible, institutions must be located in an urban area, draw a significant percentage of their students from the area, and demonstrate a clear commitment to the community.

"USE OF FUNDS"

"SEC. 534.(a) IN GENERAL. — (1) Funds under this part shall be used to assist elementary and secondary schools in urban areas that serve a high percentage of under-performing students to eliminate the barriers these schools face in helping their students achieve their academic potential and prepare for and pursue a postsecondary education.

"(2) Activities described under paragraph (1) may include:

"(A) design, development, and implementation of innovative programs which address urban education problems targeted by the partnership;

"(B) establishing programs of academic and personal counseling, mentoring, tutoring and other student support services;

"(C) establishing programs to foster and improve parental involvement;

"(D) establishing programs to ameliorate problems affecting the school environment such as violence, drug use and those problems associated with diverse and under-prepared student populations;

"(E) improving the use of technology, including training and support in the use of technology, sharing of technological resources and the acquisition of equipment for use in partner schools;

"(F) training faculty and staff of partner schools;

"(G) curriculum design and development, and development of pedagogical approaches which are designed to meet the needs of disadvantaged students;

"(H) sharing or joint use of resources; and

"(I) such other activities as will accomplish the purposes of this part.

(3) Funds under this part may not be used for programs whose primary purpose is to meet postsecondary education degree requirements, such as student teaching or practica.

"(b) STUDENT PARTICIPATION. — Institutions of higher education are encouraged to place students receiving funds under Title IV, Part C in grant-supported projects.

**School, College, and University Partnerships Program
Funded Projects
1995-1996**

Alabama

Grantee:

*John C. Calhoun State Comm. Coll.
Decatur, Alabama 35609-2216*

Contact Person:

Chris Hamilton
John C. Calhoun State
Community College
P.O. Box 2216
Decatur, Alabama 35609
205-306-2619

Arizona

Grantee:

*Arizona State University
Tempe, AZ 85287-0611*

Contact Person:

Dr. Edward A. Nelsen
Arizona State University
Box 871611
Tempe, AZ 85287-0611
602-965-6529

*Northland Pioneer College
Holbrook, AZ 86025*

Jim Richmond
Navajo County Comm.
P.O. Box 610
Corner of First and Hopi
Holbrook, AZ 86025
602-537-2976 x311

California

Grantee:

*California State University
Carson, California 90747*

Contact Person:

Gary R. Levine
Division of Extended Ed.
Dominguez Hills Fdn.
1000 East Victoria Street
Carson, California 90747
310-516-3727

*California State Univ., Sacramento
Sacramento California, 95819*

Christy Jensen
Public Policy and
Administration Program
6000 J Street
Sacramento, CA 95819
916-278-6557

*East Bay Consortium of
Educational Institutions, Inc.
Oakland, California 94606*

Delores Jaquez
East Bay Consortium of
Educational Institutions, Inc.
314 East Tenth Street, Room 9
Oakland, California 94606
510-836-8367

*Merced College
Merced, California 95348*

Marvin Smith
Merced College
3600 M Street
Merced, California 95348
209-384-6202

Illinois

Grantee:

*Northeastern Illinois University
Chicago, Illinois 60622*

Contact Person:

Richard Rutschman
Bridges to the Future Program
Northeastern Illinois Univ.
Chicago Teachers' Center
770 N. Halsted St. 4th Floor
Chicago, Illinois 60622
312-733-7330

New York

Grantee:

*New York University
New York, New York 10003*

Contact Person:

Dr. John Devine
Project Praise
New York University
Metropolitan Center for Urban
Education
32 Washington Place, Rm. 72
New York, New York 10003
312-998-5120

*State Univ. of N.Y at Fredonia
Fredonia, New York 14063*

Toni V. Vesotski
Director, Project SAFARI
State Univ. of N.Y at Fredonia
E276 Thompson Hall
Fredonia, New York 14063
716-673-3245

Rhode Island

Grantee:

*University of Rhode Island
Providence, R.I. 02908*

Contact Person:

**Kathleen A. Dodge
University of Rhode Island
Urban Field Center
22 Hayes Street, Room 105
Providence, R.I. 02908
401-277-3982 5234**

SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS (SCUP) PROGRAM
LEGISLATIVE AND FUNDING HISTORY

The Higher Education Amendments of 1986 (P.L. 99-498), October 17, 1986

The Higher Education Amendments of 1986 authorized the School, College, and University Partnerships program under Title V of the Higher Education Act of 1965, as amended. The statute stated that the purpose of the program is to encourage partnerships between institutions of higher education and secondary schools serving low-income students, to support programs that improve the academic skills of secondary school students, increase their opportunity to pursue postsecondary education, and to improve their prospects for employment after secondary school.

The program had two components: a university/secondary school matching grant program and a community college pilot project program that limited participation to the four colleges listed in the authorizing statute. Funding preferences were given to projects that met two or more of the following priorities: (1) Projects serving predominantly low-income communities; (2) projects conducting programs during both the regular school year and the summer; and (3) projects serving educationally disadvantaged students, potential dropouts, pregnant adolescents and teen parents, or children of migratory agricultural workers or of migratory fishermen.

The statute required that the partnership consist of an institution of higher education and a local educational agency. The partnership, however, could also include businesses and other private and public agencies and associations. For the community college pilot projects, a business partner was required.

For all SCUP projects, a non-federal cost sharing of at least 30%, 40%, and 50% of total project costs was required in the first, second, third and subsequent years of funding, respectively.

The program was first funded in fiscal year 1988 with an appropriation of approximately \$2.4 million. Nine projects were funded, seven under the university and secondary school component and two community college pilot projects. In fiscal year 1989 two additional community college pilot projects were funded with the \$2.76 million appropriated.

Department of Education Appropriations Act, 1990, (P.L. 101-166), November 21, 1989,

The Appropriations Act of 1990 allocated funds for the SCUP program only under section 523 of the Higher Education Act (HEA) -- the university and secondary school component. Further, the Conference Report for the Act specifically stated that the Secretary should invite new applications that addressed the following priority: "Projects that will link a community college, secondary schools, and a university and emphasize advancement to higher education and degree completion, leading to employment. Projects may identify low-income students in their junior year of high school, prepare

them to continue their technical education at a community college, and provide them with the opportunity to complete a degree at a university." The Report further noted that Indian Hills Community College in Ottumwa, Iowa, was a possible recipient of this demonstration grant.

With no funds appropriated to provide continuation grants for the four community college pilot projects which were authorized and funded under section 525 of the HEA, a competition for new grants was held and four, one-year project grants awarded. Only one of the previously funded community college pilot projects was successful in receiving a new one-year grant in fiscal year 1990.

The fiscal year 1990 appropriation of approximately \$2.96 million supported seven continuation and four new grants.

In fiscal year 1991, a competition for new grants was held with fourteen, multi-year awards made with the \$3.9 million appropriated.

In fiscal year 1992, these fourteen projects shared the \$4 million appropriation.

In fiscal year 1993, the \$3.9 million appropriation was shared by twelve of the multi-year projects. Funding for two projects was not renewed because of lack of progress and compliance issues.

The Higher Education Amendments of 1992, (Pub. L. 102-325) July 23, 1992.

The 1992 amendments to the Higher Education Act (HEA) made several changes to the program. First, the program was moved to Title I of the Act as one of the programs under "Title I -- Partnerships for Educational Excellence." The program purpose was refined to include "improving high school retention and graduation rates of low-income and disadvantaged students" as a program goal, and State higher education agencies and consortia were added as eligible applicants. Further, involving secondary school students in community service and learning projects was added to the list of allowable activities; students with disabilities and whose native language is other than English were added to the list of disadvantaged populations to be served; and projects designed to encourage women and minorities who are underrepresented in the fields of science and mathematics was added as a statutory priority. The amendments also limit the number of years a SCUP partnership can be funded to a maximum of five years, stipulate that the Secretary should consider geographical distribution in the awarding of grants under this program, and allow the Secretary to waive the cost-sharing requirements for eligible partnerships that demonstrate a "unique hardship."

Program regulations were developed for this program and published in final on September 24, 1993. These regulations clarify the statute requiring that the higher education partners be the legal applicant for the SCUP partnerships. Although local educational agencies are essential partners in a SCUP project, they are not no longer eligible to apply for funding on behalf of the partnerships. The regulations also

establish a list of funding priorities from which the Secretary may select priorities for a particular competition.

For the fiscal year 1994 competition, funding priority was given to applications that addressed one or more of the following Secretary's priorities: (1) projects that involve students in apprenticeships or other on-the-job training; (2) projects that involve businesses in carrying out project objectives; and (3) projects that involve nonprofit private organizations in carrying out project objectives.

In fiscal year 1994, 12 new grants were awarded for project periods ranging from one to five years.

SCUP FUNDING HISTORY

	'88	'89	'90	'91	'92	'93	'94
Appropriation	2.4	2.8	3.0	3.9	4.0	3.9	3.9
# of applications received	105	2	67	182	NA	NA	114
# of eligible applications	86	2	49	156	NA	NA	92
# of new awards	9	2	4	14	NA	NA	12
# of continuation awards	NA	9	7	NA	14	12	NA

SCUP APPLICANT POOL BY INSTITUTIONAL TYPE

	'88	'89	'90	'91	'92	'93	'94
Two-Year IHE's	16	2	6	29	NA	NA	22
Four-Year IHE's	50	NA	31	82	NA	NA	69
LEA's	19	NA	12	43	NA	NA	NA
Partnerships	1	NA	0	2	NA	NA	NA
Consortia of IHE's	NA	NA	NA	NA	NA	NA	1
State Higher Ed. Agencies	NA	NA	NA	NA	NA	NA	0
Total	86	2	49	156			92

SCUP GRANTEEES BY INSTITUTIONAL TYPE

	'88	'89	'90	'91	'92	'93	'94
Two-Year IHE's	2	4	2	2	2	2	4
Four-Year IHE's	6	6	7	10	10	9	7
LEA's	1	1	2	2	2	1	NA
Consortia of IHE's	NA	NA	NA	NA	NA	NA	1
Total	9	11	11	14	14	12	12

establish a list of funding priorities from which the Secretary may select priorities for a particular competition.

For the fiscal year 1994 competition, funding priority was given to applications that addressed one or more of the following Secretary's priorities: (1) projects that involve students in apprenticeships or other on-the-job training; (2) projects that involve businesses in carrying out project objectives; and (3) projects that involve nonprofit private organizations in carrying out project objectives.

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SCUP FUNDING HISTORY

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# of applications received	105	2	67	182	NA	NA	114	NA		
# of eligible applications	86	2	49	156	NA	NA	92	NA		
# of new awards	9	2	4	14	NA	NA	12	NA		
# of continuation awards	NA	9	7	NA	14	12	NA	11	0	0

SCUP APPLICANT POOL BY INSTITUTIONAL TYPE

	'88	'89	'90	'91	'92	'93	'94
Two-Year IHE's	16	2	6	29	NA	NA	22
Four-Year IHE's	50	NA	31	82	NA	NA	69
LEA's	19	NA	12	43	NA	NA	NA
Partnerships	1	NA	0	2	NA	NA	NA
Consortia of IHE's	NA	NA	NA	NA	NA	NA	1
State Higher Ed. Agencies	NA	NA	NA	NA	NA	NA	0
Total	86	2	49	156			92

SCUP GRANTEES BY INSTITUTIONAL TYPE

	'88	'89	'90	'91	'92	'93	'94	'95	'96	'97
Two-Year IHE's	2	4	2	2	2	2	4	3		
Four-Year IHE's	6	6	7	10	10	9	7	7		
LEA's	1	1	2	2	2	1	NA	NA		
Consortia of IHE's	NA	NA	NA	NA	NA	NA	1	1		
Total	9	11	11	14	14	12	12	11	0	0

MEMORANDUM

TO: ELENA KAGAN
FROM: TOM FREEDMAN, MARY L. SMITH, BILL KINCAID, JULIE MIKUTA
RE: RECOMMENDATIONS FOR HOPWOOD/PROPOSITION 209
DATE: AUGUST 5, 1997

SUMMARY

The Administration is investigating options to ensure diversity in higher education in light of some of the effects of the Hopwood decision and the University of California Board of Regents' decision to exclude race as a factor in admissions. Two approaches to the problem are being pursued simultaneously: (1) litigation to reverse the decision and/or law and (2) policy initiatives to improve diversity in higher education. This memo is not concerned with the litigation strategy, but rather with some possible policy initiatives that could be implemented both long-term and short-term.

This memo first lists some of the actions already being taken in California and Texas to combat the Board of Regents' decision and the Hopwood case. These actions are excerpted from a memorandum from Leslie Thornton at the Department of Education dated July 18, 1997. We also plan to set up a meeting with Leslie Thornton, DOE, and DOJ this week.

Following the section on actions being taken in California and Texas, this memo outlines a universal set of possible proposals to investigate further, grouped in the following categories: (1) pre-kindergarten; (2) kindergarten through eighth grade; (3) high school; and (4) access opportunities, regardless of age.

Following the outline of policy proposals, this memo lists some possible participants in a planning meeting and proposes a tentative time line for planning and implementation.

I. ACTIONS BEING TAKEN IN CALIFORNIA AND TEXAS

A. CALIFORNIA

- Forming "school-centered partnerships" among each UC campus and public schools chosen for their poor academic performance, to establish standards and to improve student achievement. Yes
- Expanding academic outreach programs for K-12 students. Yes

- Creating an "information outreach" program to help students and their families prepare for college. yes
- **Alternative admissions strategies.** A June 24, 1997 article in the Sacramento Bee set out how each of UC's nine campuses will "experiment" with different admissions policies in an effort to achieve diversity. **UC-Davis:** in filling 40% of the places in its 1998 freshman class, UC-Davis will give weight to factors other than grades and test scores such as extracurricular leadership experience; attendance at a high school that is economically disadvantaged and has a historically low level of UC attendance; residence in the three counties closest to the university; military service; and marked academic improvement in the 11th grade. The new policy is only triggered, however, by students who meet UC minimum eligibility requirements of a combined 1000 on the SAT and a high school grade-point average of 2.82 in designated college preparatory courses. **UCLA:** will give an advantage to applicants from disadvantaged urban and rural neighborhoods. **UC Irvine:** will look at an applicant's entire profile, not just grades and scores, including personal essays and extracurricular activities. **UC San Diego:** will look at "special circumstances and personal challenges" which could include whether an applicant is trying to become the first in his or her family to attend college.
- A July 9, 1997 Education Daily article says that the UC Task Force's \$60 million dollar plan to increase minority enrollment at UC would make training and retaining teachers in disadvantaged schools a priority. The Task Force estimates the total cost of professional development at \$18.5 million annually or about \$370,00 at each of 450 schools --the disadvantaged high schools, plus 400 "feeder" elementary and middle schools. On July 17, 1997, a Board of Regents committee approved the plan to double UC's annual spending on outreach efforts--which seek to increase minority enrollment without using affirmative action--from \$60 million to \$120 million. The \$60-million additional cost projection for the program includes \$27.2 million for school outreach efforts, \$17.9 million for expanding academic programs that target black and Latino students but are open to all, and \$7.9 million for contacting students, families and schools about UC admissions requirements. yes

B. TEXAS

- The Texas legislature passed a bill that automatically admits the top 10% of all Texas high schools students to the state's university system.
- Ethnic Recruitment Program in which Texas residents may apply for grants up to \$1,000. Applicants must have a 2.75 GPA and 900 SATs. The awards may be used at any school in which their minority group constitutes - yes

less than 40% of total enrollment. [The Big Book of Minority Opportunities]

II. POSSIBLE FUTURE ACTIONS THAT CAN BE TAKEN ACROSS THE COUNTRY

A. PRE-KINDERGARTEN

- Revamp HeadStart to become more focused on school readiness and reading skills. ✓
- Child care initiatives.

B. KINDERGARTEN THROUGH GRADE 8

- Math and reading strategies
 - Pass/fund America Reads
 - Push aggressively to sign-up college-work study tutors, esp. in TX and CA
 - Encourage business community and others to recruit tutors in CA and TX
 - Establish additional ED-organized reading pilot sites in TX and CA for next summer
 - Organize regional meetings and target other information on best practices in reading and math in TX and CA
 - Increase funding for ED and NSF programs targeted on improving middle school math in urban areas per math strategy
 - Possible math partnership with private sector and other agencies, with challenging math problems, and encourage “coaching” activities in high need areas, esp. CA and TX
- Urban testing initiative which signed up 15 urban schools systems to participate in national tests and to form a network with the Department of Education and NSF to share information about promising practices and resources to prepare students to meet the standards.
- Urban systemic reform which builds on the Department of Education’s 1996 proposed urban initiative (ACE) which focused on accountability, choice and excellence through an urban grants program. ✓
- Teacher Recruitment and Preparation initiative proposed under Title V of HEA. ✓
- Community Schools Program in Department of Education’s FY 1998 budget.

- After School Programs in proposed amendment to Juvenile Justice bill.
- School Construction (action needed depends upon outcome of budget reconciliation).
- Summerbridge is a national program in which high school and college students teach summer school to middle school students. Summerbridge is in 36 cities. Students who teach the course have a high rate of college attendance, and many go into education.
- Technology
 - Press private sector to complete job of outfitting and connecting up schools in poor areas in TX and CA
 - Possible initiative on teacher professional development re: technology?

C. HIGH SCHOOL

Initiatives in California

- The University of California system has created a partnership with the 50 low-performing high schools that will help students achieve better test scores and grades in order to help qualify for university admissions on academic merit.
- SCORE is a program at Buena Park High School, CA, which was established in 1991. Students take field trips to various university campuses, attend classes, have lunch and get an overview of the programs offered. College students visit the high school and discuss their experiences. [Orange County Register, 1/23/97]
- Advancement via Determination is a program in which 47 schools in the Colton Unified School District participate. This program focuses on study skills and goal-setting with minority and low-income students.
- Cal Grants :
 - Grant A: from \$600 to \$4,500 to help low-income residents of the state cover tuition and fees at colleges-- renewable for up to 3 years.
 - Grant B: from \$600 to \$1,200 as a living allowance to low-income students.
 - Grant C: to help vocationally-oriented students obtain marketable job skills.

Initiatives in Texas

- Automatically admit the 10% of all seniors to attend any state university (proposed in Texas).
- Ethnic Recruitment Program in which Texas residents may apply for grants up to \$1,000. Applicants must have a 2.75 GPA and 900 SATs. The awards may be used

at any school in which their minority group constitutes less than 40% of total enrollment. [The Big Book of Minority Opportunities]

Other Initiatives

- Courses to help prepare for the college admissions tests like the SAT.
- Expand grants to pay for Advanced Placement (AP) testing (this was in our budget proposal).
- Urban systemic reform which builds on the Department of Education's 1996 proposed urban initiative (ACE) which focused on accountability, choice and excellence through an urban grants program.
- Teacher Recruitment and Preparation initiative proposed under Title V of HEA.
- Community Schools Program in Department of Education's FY 1998 budget.
- After School Programs in proposed amendment to Juvenile Justice bill.
- School Construction (action needed depends upon outcome of budget reconciliation).
- Upward Bound is a federally funded program for low-income high school students which was started in 1965 under the Higher Education Act. Through the program, students attend summer courses and after-school or Saturday classes throughout the year either at their school site or at a college. Some Upward Bound programs also give the students financial assistance for college preparatory activities such as paying for the SAT processing fee.
- Aid with processing of forms associated with going to college -- Some for-profit companies target minorities with programs that will identify scholarships available to them, assist them in their completion of forms and even college entrance essays.

D. ACCESS OPPORTUNITIES

- Insert a proposal in the higher education reauthorization bill that would create a one-stop shopping approach to make future students aware of all the possible financial aid that is available.
- Aggressively promote, in California, Texas-like legislation on admissions to upper-tier

universities for students graduating in the top percentage of their class.

- Issue of early Pell grant proposal (Rep. Chaka Fattah).
- Bully pulpit and Department of Education activity to promote HOPE scholarship and federal student financial aid, especially with students and parents in CA and TX.
- Creation of an interactive Website that would provide a customized list of financial aid available.
- Using existing resources and programs (Title I, Safe and Drug Free Schools, Technology Literacy Challenge, e-rate, Goals 2000, School-to-Work, Vocational Education) to more effectively support the improvement of urban education, by:
 - greater targeting of resources to urban areas through appropriations requests, formula changes, or regulatory changes;
 - increased flexibility in the use of formula funds to support local improvement strategies;
 - better information on effective practices for addressing urban issues with federal program funds;
 - targeted technical assistance to help small number of districts use program funds and R&D to strengthen reforms, with a special emphasis on reading and math standards;
 - accessing resources in EZ's/EC's to support education improvement; and
 - targeting funds for National Board for Professional Teaching Standards to provide support to urban and rural teachers preparing for board certification and/or incentives for board-certified teachers to teach in high poverty urban and rural schools.
- Programs to improve the scores of minorities on the SAT
 - Organizations, businesses, schools and colleges across the country are sponsoring SAT study groups for disadvantaged students. For example, in Atlanta, the local chapter of an African-American fraternity, the NAACP, and the school board run a course that costs \$75 instead of the \$700 fee of a commercial course. Prince George's County schools work with Maryland's Bowie State University. The program offers an intensive, 14-week SAT-preparation course for 150 high school students, with the goal of increasing college-entrance rates. The university and private businesses are paying for the program; the school system is picking up the tab for transportation.
 - Kaplan works with volunteer organizations to train SAT tutors. It also goes into high schools with needy students to offer services for free or at a reduced charge

to the youths. Financial aid for disadvantaged students is also available.

- The Princeton Review Foundation, the nonprofit arm of the Princeton Review, runs reduced-cost programs in conjunction with local foundations for about 1,500 students nationwide and has distributed books and trained tutors in local groups.
- Stanford Testing Systems makes SAT-test preparation materials available at a relatively low cost. Some of their test-prep programs are free on the Internet.
- The University of California at Riverside recently started a two-week program to raise the SAT scores of black high school students. Students receive individual tutoring, two hours of computer work each day, and an hour of group instruction each day.
- Hispanic Education Initiative (NEC is leading the effort on this).
- Racially Identifiable Schools (busing, integration)
- Tribal Schools with reforms to come.
- Historically Black Colleges and Universities (HBCU)
- Outreach to minority students generally.
- Fixing failing schools.
- Support on-going research on alternative admissions policies for gaining a diverse student body.
- Retention at college: Several colleges run programs designed to increase the retention of economically disadvantaged and under represented students.

POSSIBLE PARTICIPANTS FOR PLANNING MEETING

- Leslie Thornton, Department of Education
- other participants from the Department of Education
- DOJ
- Dawn Chirwa, White House Counsel's office



Elena Kagan
07/19/97 03:54:14 PM

Record Type: Record

To: William R. Kincaid/OPD/EOP

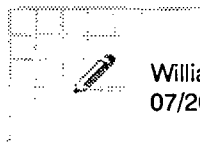
cc:

Subject: Re: More on California 

✓

✓

sounds right. could you (1) get hold of the draft report and (2) write a new set of talking points? I will also call a meeting on this subject soon.



William R. Kincaid
07/20/97 04:58:14 PM

Record Type: Record

To: Leslie_Thornton @ ed.gov @ inet
cc: Iva_Smith @ ed.gov @ inet
Subject: talking points

Leslie--

Friday I shared with Elena Kagan your comment that the POTUS could strengthen his response to questions about the situation with respect to UC/affirmative action. Elena agrees and has asked me to prepare some revised talking points, and plans to put together a meeting on this general topic soon. I have reviewed again your memo on declining minority enrollment and the materials on the UC report that Iva sent over, but I would appreciate additional input from you in shaping this, either a suggested road map/language that I could use in putting something together, or in commenting on what I have assembled.

I plan to work on this early next week. Please let me know how you would prefer to be involved.

Thanks.

-- Bill



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

FAX TRANSMITTAL

TO: Bill KincaidPHONE: _____ FACSIMILE: 456-7028FROM: **LESLIE T. THORNTON**
CHIEF OF STAFF

202-401-2098 (fax)

202-401-3000 (phone)

PAGE (S) TO FOLLOW: 18MESSAGE: _____

_____CONFIDENTIALITY NOTICE

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POSSIBLE TIME TABLE

1. Initial planning meeting in early August.
2. Proposals from all participants by early September.
3. Implementation of certain selected initiatives by December 1997 so that they can used during the next college admission cycle.

InfoPath – University of California, San Diego

Approved

SP-2

OFFICE OF THE SECRETARY

July 12, 1995

TO THE BOARD OF REGENTS:

ITEM FOR ACTION

For Meeting of July 20, 1995

ADOPTION OF RESOLUTION: POLICY ENSURING EQUAL TREATMENT--EMPLOYMENT AND CONTRACTING

Regent Connerly recommends that the following resolution be adopted:

WHEREAS, Governor Pete Wilson, on June 1, 1995, issued Executive Order W-124-95 to "End Preferential Treatment and to Promote Individual Opportunity Based on Merit"; and

WHEREAS, paragraph seven of that order requests the University of California to "take all necessary action to comply with the intent and the requirements of this executive order"; and

WHEREAS, in January 1995 the University initiated a review of its policies and practices, the results of which support many of the findings and conclusions of Governor Wilson;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Effective January 1, 1996, the University of California shall not use race, religion, sex, color, ethnicity, or national origin as criteria in its employment and contracting practices.

Section 2. The President of the University of California is directed to oversee a systemwide evaluation of the University's hiring and contracting practices to identify what actions need be taken to ensure that all persons have equal access to job competitions, contracts, and other business and employment opportunities of the University. A report and recommendations to accomplish this objective shall be presented to the Board of Regents before December 31, 1996. *(The President intends to bring the report to the Board before December 31, 1995.)*

Section 3. Nothing in Section 1 shall prohibit any action which is strictly necessary to establish or maintain eligibility for any federal or state program, where ineligibility would result in a loss of federal or

state funds to the University.

Section 4. Nothing in Section 1 shall prohibit the University from taking appropriate action to remedy specific, documented cases of discrimination by the University, provided that such actions are expressly and specifically approved by the Board of Regents or taken pursuant to a final order of a court or administrative agency of competent jurisdiction. Nothing in this section shall interfere with the customary practices of the University with regard to the settlement of claims against the University relating to discrimination.

REGENTS' DIVERSITY COMMITMENT

**ADOPTED BY THE BOARD OF REGENTS
JULY 20, 1995**

Believing California's diversity to be an asset, we adopt this statement: Because individual members of all of California's diverse races have the intelligence and capacity to succeed at the University of California, this policy will achieve a UC population that reflects this state's diversity through the preparation and empowerment of all students in this state to succeed rather than through a system of artificial preferences.



Last Updated: 12/11/95

Send questions, comments, and suggestions about InfoPath to: feedback@infopath.ucsd.edu

DRAFT ANALYSIS**I. MINORITY ENROLLMENT TRENDS PRE-HOPWOOD & CALIFORNIA PROP. 209****A. Racial and ethnic differences in participation in higher education generally**
[source: the 1997 Condition of Education Report]

Racial and ethnic differences in college enrollment rates may reflect differences in access to and persistence in higher education for groups with varying social and economic backgrounds, according to data presented in the department's annual 1997 Condition of Education report. Differing enrollment rates are also a leading indicator of future differences in the earnings and productivity associated with post-secondary education -- a finding that is particularly significant in light of the recent application and enrollment trends in Texas and California. The college enrollment rate for 18 to 24-year-olds is influenced by the number who enroll immediately after graduating from high school, the number who delay entry, and the number of years individuals in both of these groups stay in higher education.

Between 1976 and 1995, the percentage of high school graduates aged 18-24 enrolled in college increased from 33.1 percent to 42.1 percent. The rates of increase differed by race and ethnicity with blacks and Hispanics showing a smaller increase. Specifically, the percentage of black high school graduates aged 18-24 enrolled in college increased from 33.4 percent to 35.2 percent, while the percentage of white high school graduates aged 18-24 enrolled in college increased from 32.8 percent to 43.7 percent, and the percentage of Hispanic high school graduates aged 18-24 enrolled in college increased from 35.9 percent to 34.9 percent.

Interestingly, 1976 was the only year in which the percentage of Black high school graduates aged 18-24 enrolled in college was greater than the percentage of white high school graduates enrolled in college and the only year in which the percentage of Hispanic high school graduates aged 18-24 enrolled in college exceeded both the rate for white and Black students. Between 1993 and 1995, white high school graduates aged 18-24 were more likely to be enrolled in college than were their black and Hispanic counterparts. For these years, the average enrollment rate for whites was 9 percentage points higher than that of both blacks and Hispanics.

The percentage of high school graduates aged 18-24 enrolled in college was higher in 1995 than in 1972 for whites and blacks. During this period, the college enrollment rates for whites grew substantially (11 percentage points), with most of the growth occurring after 1981. College enrollment rates for blacks of the same age group grew moderately over the period (8 percentage points).

Between 1993 and 1995, enrollment rates in 2-year institutions were similar for white and black high school graduates aged 18-24, while Hispanics were more likely than whites or blacks to be enrolled in 2-year institutions. However, both black and Hispanic high school graduates aged 18-24 were substantially less likely to be enrolled in 4-year institutions than were their white counterparts.

Enrollment rates for older adults, high school graduates aged 25 or older, were much lower than those for their younger counterparts aged 18-24 regardless of racial and ethnic group. Between 1993 and 1995, college enrollment rates were similar for white, black, and Hispanic high school graduates aged 25-34.

B. Trends in Fall Enrollment in Higher Education by Race and Ethnicity

[source: the 1997 Condition of Education Report]

Between 1976 and 1994, the percentage of minority students enrolled in higher education increased from 15.7% to 24.6%. In absolute numbers, total minority enrollment increased 1.6 million to 3.4 million students.

Over the same period, black enrollment in higher education increased from 9.6% to 10.5%. Again, in absolute numbers, black enrollment increased from 1 million to 1.4 million students. Again, over the same period, Hispanic enrollment in higher education increased from 3.6% to 7.6%. Again, in absolute numbers, black enrollment increased from 383,000 to 1.046 million students.

C. The ACE Report

[source: The Fifteenth Annual Status Report on Minorities in Higher Education²]

The Fifteenth Annual Status Report on Minorities in Higher Education provided by the American Council on Education, reveals that students of color continue to make progress in higher education, but still lag significantly behind white students in the rate at which they enroll in college. In addition, "[w]hile minorities continued to register increases in the number of students attending colleges and universities and receiving degrees during the period covered by the report, the findings raise concerns about the impact of more recent political and legal attacks on affirmative action."

² The annual ACE report presents national data on high school graduation rates, college participation and enrollment, and degree attainment, broken down by race and ethnicity, as well as statistics on employment and tenure rates of faculty of color. For the first time, this year's report includes information on overall educational attainment and a section that highlights innovative campus programs aimed at increasing higher education achievement among students of color. A special focus section explores educational trends and demographics among Asian-Pacific Americans.

Overall enrollment of students of color rose by 2.9 percent between 1994 and 1995 (the latest year for which such data is available), compared with gains of 4.6 percent between 1993 and 1994 and 7.1 percent in 1992. Minority students registered increases of 9.8 percent in the number of associate degrees earned in 1995; 8.5 percent in the number of bachelor's degrees; 11.1 percent in master's degrees; and 9.7 percent in first-professional degrees. However, these gains were smaller than those posted in the previous year. In 1994, increases in degree attainment ranged from 12.4 percent in the number of master's degrees to 16.8 percent in the first-professional degree category. In addition, while students of color made up 22.3 percent of all four-year undergraduates in 1994, they earned only 16.8 percent of all baccalaureates conferred that year.

1. High School Completion

African-Americans and Hispanics continue to trail whites, according to the ACE study, in the rate at which they finish high school, as they have for the past two decades. The completion rate for 18 to 24-year-old whites was 81.9 percent in 1995, compared with 76.9 percent for African-Americans and 58.6 percent for Hispanics. The 1995 completion rate for African-Americans was virtually unchanged from the previous year, but remains about 12 percentage points higher than the 64.8 percent recorded in 1975. The rate for Hispanics has fluctuated over time. The current rate is slightly above those recorded in the mid-1970s and two percentage points higher than in 1994, but below the 1993 rate of 60.9 percent.

2. College Participation and Enrollment – Blacks Have Recorded the Smallest College Enrollment Gains of All Ethnic Groups

Nationally, the number of traditional college-age individuals (18 to 24-year-olds) peaked in 1981 and then went into a 10-year decline before leveling off. ACE reports that much of the decrease was due to a drop in the number of whites in that age cohort, which in 1995 remained 12.2 percent lower than in 1981. The number of traditional college-age African-Americans also dipped in the 1980s, then rose by 3 percent between 1990 and 1995. The Hispanic 18 to 24-year-old population climbed rapidly, increasing by 62 percent between 1985 and 1995 and by 31 percent since 1990.

Although fewer whites are enrolled in college, their numbers have not declined proportionate to their share of the population because of steady increases in their rates of participation in higher education. Enrollment rates for African-Americans and Hispanics, on the other hand, have fluctuated over time. Over the two decades from 1975 to 1995, the proportion of 18 to 24-year-old white high school graduates enrolled in college each year rose by 10 percentage points, to 43.1 percent. The rate for

African-American high school graduates increased by only three percentage points, to 35.4 percent.³

During the 1990s, Hispanics have regained ground lost earlier; however, their 1995 participation rate of 35.3 percent was nearly identical to the 35.5 percent recorded 20 years previous. Students of color have made significant gains in college enrollment over time, but most of those gains were recorded prior to 1995. The number of minority students enrolled in college grew by 67.7 percent between 1984 and 1995, and by 29.2 percent since 1990.

All four ethnic minority groups recorded only small enrollment increases between 1994 and 1995. Hispanics and American Indians posted the largest one-year gains, 4.6 percent and 3.1 percent, while Asian Americans experienced a 3 percent increase and African-Americans a 1.7 percent increase.

African-Americans have recorded the smallest college enrollment gains of all ethnic minority groups in recent years. Since 1990, the group's college enrollment has risen by only 18.2 percent, compared with a 39.6 percent increase for Hispanics, 39.2 percent for Asian Americans, and 27.5 percent for American Indians.

3. Educational Attainment – Blacks and Hispanics Are Still Trailing

For the first time, ACE's report provides statistics on the educational attainment of whites, African-Americans, and Hispanics. This is important because information on educational attainment provides "important insights regarding the economic well-being of Americans," according to the report, "higher levels of achievement typically contribute to greater socioeconomic success." Drawing on census data, ACE's report examines the educational attainment of individuals ages 25 and older, particularly those 25 to 29 years old, who completed high school and college.

Nationally, the proportion of adults ages 25 to 29 who had completed high school was virtually unchanged in 1995 from a decade earlier (nearly 87 percent). While the data show African-Americans are closing the gap with whites in terms of high school

³Note that the ACE study is statistically consistent with the findings in the 1997 Condition of Education Report and other department data, though there is a slight difference in numbers. That is, education statistics show that between 1976-1995, the percentage of blacks high school graduates aged 18-24 enrolled in college increased from 33.4 percent to 35.2 percent. The ACE study over the years 1975-1995, indicates a 3 percent increase to 35.4 percent.

completion, both African-Americans and Hispanics trail far behind whites in the rates at which they complete college.

In 1995, 25 to 29-year-old whites and African-Americans registered nearly identical high school completion rates (87.4 percent vs. 86.5 percent). This represented substantial progress from 10 years earlier, when African-Americans trailed whites by more than 6 percentage points (86.8 percent vs. 80.6 percent). Hispanics continued to lag behind with a 1995 rate of 57.1 percent.

Approximately 26 percent of all white adults ages 25 to 29 had completed at least four years of college in 1995, compared with 15.3 percent of African-Americans and 8.9 percent of Hispanics. The 1995 figures are the highest recorded since 1975 for whites and African-Americans. The rate for Hispanics has fluctuated over time, reaching 10 percent and slightly higher during much of the 1980s before dipping in the 1990s.

4. Degrees Conferred -- Data Proves Efforts by Colleges & Universities to Improve Access for Minorities Has Resulted in Higher Gains for Minorities

The report's findings on degree attainment indicate that efforts by colleges and universities in the late 1980s and early 1990s to improve access for and retention of students of color have paid off. Minority students recorded gains in all four academic degree categories between 1993 and 1994 (the latest year for which data is available). Nonetheless, the increases were smaller than those registered in previous years. Students of color earned 16.8 percent of all bachelor's degrees in 1994, only 1.2 percentage points above the previous year, compared with the 2.2 percentage point increase between 1992 and 1993.

Between 1993 and 1994, African-Americans posted increases in the number of degrees earned in each of the four categories, but the rise at the baccalaureate level (7.3 percent) was the lowest among all ethnic minority groups. African-American students earned 9.7 percent more associate degrees in 1995; 10.9 percent more master's degrees; and 8.4 percent more first-professional degrees.

Hispanic students recorded an 8.2 percent gain in associate degrees; 10.7 percent in bachelor's degrees; 11.7 in master's degrees; and 5 percent in first-professional degrees. American Indians experienced an increase of 13.6 percent at the associate level; 9.1 percent in baccalaureates; 20.6 percent in master's degrees; and 0.8 percent in first-professional degrees. The increases for Asian Americans were 12.2 percent in associate degrees; 8.2 percent baccalaureates; 10.1 percent master's degrees; and 14.2 in first-professional degrees.

Students of color also continued to experience steady growth in doctoral degree attainment. The number of doctoral degrees earned by these students rose by 13.6 percent between 1994 and 1995 and by 67 percent from 1985 to 1995. Among the four ethnic minority groups, Asian Americans recorded the largest one-year increase in doctoral degree recipients in 1995 (19.9 percent), followed by African-Americans (17.5 percent), American Indians (4.2 percent), and Hispanics (3.6 percent).

ACE reports that students of color at National Collegiate Athletic Association Division I institutions also posted gains in graduation rates between 1990 and 1995. Asian Americans experienced the smallest gain, 3 percentage points (from 62 percent to 65 percent), while African-Americans posted the largest, 9 percentage points (from 31 percent to 40 percent). Graduation rates for Hispanics rose by 6 percentage points (from 40 percent to 46 percent) and for American Indians by 8 percentage points (from 29 percent to 37 percent). White students recorded a 1995 graduation rate of 59 percent, up 3 percentage points from 1990.

5. Faculty -- Despite Significant Increases in the Number of Minority Faculty, They Are Still Severely Under Represented

The number of full-time faculty of color increased by 43.7 percent between 1983 and 1993, compared with 6.4 percent for whites. Despite these gains, faculty of color remain severely under represented, accounting for only 12.2 percent of all full-time faculty at U.S. colleges and universities and just 9.2 percent of full professors in 1993.

Among African-American full-time faculty, nearly two-thirds served as associate or assistant professors in the 1995-96 academic year, while 17.8 percent had attained the rank of full professor and 15.6 percent served as instructors.

Approximately 32 percent of Hispanic faculty served as assistant professors last year, while only 18.4 percent were associate professors and 17.3 percent full professors. Asian Americans posted the largest proportion of any ethnic minority faculty group who were full professors in the 1995-96 academic year 31.1 percent. In addition, although American Indians accounted for a very small share of U.S. faculty, nearly 25 percent of them were full professors; another 21.9 percent were associate professors, and 26.1 percent served as assistant professors.

II. MINORITY ENROLLMENT TRENDS POST-HOPWOOD AND CALIFORNIA PROP. 209

[source: anecdotal evidence]

Even with affirmative action, minority enrollment in campuses nationally is not increasing as much as it was earlier in the decade -- growing less than 3 percent in

1995, according to ACE's recent study. In light of the declines we are now seeing in minority enrollment in California and Texas, these findings *must* be perceived as an "early warning signal" both for colleges and universities committed to diversity in their student bodies and for the nation as a whole. As outlined above (page 1), California and Texas schools are reporting decreases in minority applications from 25 percent to 80 percent. At the University of Texas law school, the incoming fall class will have no blacks.

III. RESPONSES TO ATTACKS ON AFFIRMATIVE ACTION

A. LOCAL AND STATE EFFORTS

According to a May 12, 1997, *Los Angeles Times* article, California Proposition 209 has spawned a series of proposals seeking other ways to increase the number of students drawn from the state's poorer-performing high schools. Some of the proposals would provide slots only to valedictorians while others would extend offers to the top 4 percent, 6 percent or even 12 percent of each high school's senior class. Proponents of the measures say they would improve the geographical distribution of UC students, help inspire competition within lower-achieving schools, and reward disadvantaged students who now lose out to their wealthier counterparts. However, a UC analysis of the 12.5 percent plan estimated that it would help boost the percentage of Latino students by more than half and slightly increase the number of African-Americans but decrease the percentage the Asian Americans and white.

In Texas, the state Senate in April passed a package which provides that 50 percent of university classes in the eight Texas schools that use selective criteria would gain admission through traditional means -- class standing, grade point average, and standardized test scores, but 40% would enter using additional factors. These factors would include the applicants' social-economic background and school activities. Schools would also look at whether the applicant's school is "low-performing." Students who finished in the top 10 percent of their class would automatically be eligible. In May, minority Senators won approval of a bill that would direct state officials to monitor minority participation at state colleges and universities in the wake of Hopwood. They would also like to see U.S. officials look at the issue of declining minority enrollment in Texas schools. Also in Texas, three universities (South Texas, Texas Wesleyan and St. Mary's) are protesting Texas Atty. Gen. Dan Morales' interpretation that Hopwood mean universities cannot even include race in a "basket" of criteria.

In May, Governor George Bush signed legislation requiring public colleges and universities to guarantee admission to students who graduate in the top 10% of their high school classes. However, several university officials worry that some students who are in the top 10 percent of their high-school classes will not be prepared to do

work in highly competitive campuses because of differences in the quality of education officials in the state's wealthy and poor districts. Other colleges officials do not see how the bill ensures that minority students will be able to afford to attend the universities. In addition, because of Texas' ban on race-based aid, officials say universities will need as much as \$60 million in new funds to accommodate minority students who qualify for admission under the new criteria but cannot afford to attend.

While the fact that local and state legislators and college officials are working to address this issue is encouraging, some of these proposals already are controversial and have highlighted the complicated issues we face in this regard. When UC-San Diego proposed giving extra points to applicants from disadvantaged high schools last summer, parents complained it would penalize high-quality schools and harm property values. And, a UC Task Force set up to explore ways too help disadvantaged students meet UC entrance requirements ran into problems in the midst of divergent opinions with one group of task force members unhappy with a proposed draft threatening to write a dissenting report.⁴



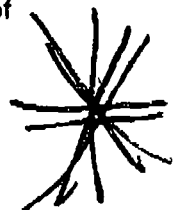
However, it is clear that when school administration officials direct time and resources to the issue, gains are the result. ACE's data supports the argument that affirmative action efforts of colleges and universities in the late 1980s and early 1990s paid off -- with minority students recording gains in all four academic degree categories between 1994-1994. It is important that we consider the careful use of this message in our public discussion of this issue.

B. The Department of Education

1. Litigation

The Department has expressed its commitment to continue to intervene in

⁴According to a May 22, 1997 Education Daily article, the UC panel recently released a draft report saying the university must focus on educational disadvantages -- not low income -- and that poor-performing schools are a better indicator than income of who needs help. The panel's recommendations include: (1) forming "school-centered partnerships" among each UC campus and public schools chosen for their poor academic performance, to establish standards and improve student achievement; (2) expanding academic outreach programs for K-12 students; and (3) creating an "information outreach" program to help students and their families prepare for college. The state and university allocated \$3.5 million for the 1997-98 school year to implement the plan but educators say it will cost tens of millions of dollars more to be successful. Currently, the plan is in a public comment period and each UC chancellor is required to submit a detailed plan by January 1, 1998.



litigation in support of appropriate affirmative action programs. In a letter to Texas legislators, the Department indicated that we would look for an appropriate opportunity to challenge the Hopwood decision. Also, the Department of Justice has filed a brief on behalf of plaintiffs in the litigation challenging California's Proposition 209.

2. Civil Rights Review

The Department's Office for Civil Rights advised Texas officials that it is conducting a review of the Texas higher education system to ensure that Texas has eliminated all remnants of its former de jure segregated system, consistent with the Supreme Court's decision in United States v. Fordice. If it were determined that such remnants exist (and no such determination has been made at this point), OCR would seek to negotiate with Texas what measures would be needed to remedy any continuing effects of past discrimination.

3. Leadership/Research Support for Affirmative Action

The Department has written to college officials in California reminding them that the terms of Proposition 209 require affirmative action to be continued in some instances, in order to continue eligibility for federal assistance; for example, the Department's Minority Teachers Grant Program. In addition, Secretary Riley, Assistant Secretary for Civil Rights Norma Cantu, and General Counsel Judith Winston have written to all college officials and have sought out opportunities at national and regional meetings to speak to the importance of diversity in the university setting and to offer assistance in promoting it.

The Department is continually pursuing opportunities to build legal support for affirmative action programs that are designed to achieve diversity. We are participating in a series of meetings sponsored by Harvard University to address research-based educational justifications for the goal of diversity.

Finally, the Department's Office of Educational Research plans to issue a request for proposals for research in this area within a short time.

4. Race-Neutral Strategies

In presentations at national meetings, the Department has called upon colleges and universities to develop and use more creative, race-neutral approaches to achieving diversity, including, for example, more aggressive recruitment in secondary schools with high percentages of minority students; educational partnerships with these secondary schools; and development of more appropriate admissions criteria that more

broadly defines educational and leadership potential of applicants. The Department plans to further explore ways to assist these efforts.

IV. OBSERVATIONS AND CONCLUSIONS

Recent press reports on the substantial decline in the number of minorities being admitted and enrolling in some of the nation's most prestigious public universities rightly call the trend "alarming." Recent data from the National Center for Education Statistics, the Department of Education, the American Council on Education, Linda Wightman, as well as anecdotal information, all point to a conclusion that the implementation of entirely race-neutral policies in public colleges and universities admissions can have disastrous affects on access of minorities to top public universities. The consequences are numerous and varied from implications of pedagogy to the effect on local communities which may be deprived of competent minority doctors, lawyers, and other professionals, to broader concerns of racial harmony generally.

On the other hand, discussing the issue is not as easy as pointing out obvious adverse affects because there is significant disagreement on plausible solutions. Moreover, both public and private colleges and universities are reluctant to discuss how precisely they use or will use race as factor of admissions for fear of legal and other challenges. While California and states in the Fifth Circuit must adhere to current law, in the remainder of the country public universities are still permitted to use affirmative action in admissions and hiring. However, campaigns to stop the use of affirmative action policies are spreading nation wide and already some students, academics and politicians are arguing that declines in minority enrollment prove affirmative action only worked to admit less qualified students over more qualified students.

It is important, therefore, to address both sides of the argument if we are going to be successful at conveying what the consequences of these and other trends portend for the nation, not just in education and economic terms but in the manner in which we relate to one another as a society.

To see a copy of the draft report, please [click here](#).

May 16, 1997

Dear Colleague:

We are writing to ask for your review and comments on the attached draft report of the University of California Outreach Task Force. In July 1995, the University of California Board of Regents established the Outreach Task Force to identify ways in which outreach -- programs to help make prospective students aware of, and prepared for, the educational opportunities of the University -- could be employed to help the University be accessible to students of diverse backgrounds.

The enclosed report proposes fundamental changes and expansion of the University's outreach programs, including efforts intended to make UC admission and enrollment more accessible to students from a wide variety of backgrounds. To achieve this end, the report proposes the way in which the University can work with schools, parents, and communities to organize academic experiences that strengthen and enrich students' pre-college preparation. We seek your ideas and comments in order to help us tailor these experiences and programs to the needs and circumstances of students throughout California.

This draft report proposes an ambitious new effort on the part of colleges and universities, establishing a partnership in which the curriculum, instruction, and study skills developed in kindergarten through high school are more closely linked with these same elements at the postsecondary level. We believe that these closer ties can make University enrollment a possibility for many, many students who otherwise might not consider, or prepare for, higher education.

The plan was drafted by a Task Force convened by the University's Board of Regents to "... develop proposals for new directions and increased funding for the Board of Regents to increase the eligibility rates of those who are disadvantaged economically or in terms of their social environment." The Task Force is comprised of faculty, students, and staff from the University of California, as well as representatives from the California State University, California Community Colleges, California public schools, and California business and industry.

We need the advice of educators, community leaders, and parents and students as we decide how the University can best achieve its goal of a diverse and high achieving student body. Your consideration of the findings and recommendations of the Task Force thus far will contribute to a final product that makes the best use of University resources and best serves the needs of California students.

The Task Force will review the comments received and expects to prepare a final report for presentation to The Regents of the University at their July meeting.

You should direct your comments, in writing, by June 6 to:

Dennis J. Galligani, Ph.D.

Assistant Vice President, Student Academic Services
University of California, Office of the President
300 Lakeside Drive, 17th Floor
Oakland, CA 94612-3550

On behalf of the Task Force and the University, thank you for your assistance with this important work.

We look forward to hearing from you.

Sincerely,

C. Judson King, Co-Chair
Outreach Task Force
Provost & Senior Vice President
Academic Affairs

Richard C. Clarke, Co-Chair
Outreach Task Force
CEO (Retired)
PG&E

cc:
University of California Board of Regents
President Atkinson
Assistant Vice President Galligani
Members of the University of California Outreach Task Force

OUTREACH TASK FORCE UNIVERSITY OF CALIFORNIA



*Draft Report
of the University of California
Outreach Task Force*

Draft for Public Comment

**A Report by the Outreach Task Force
or the Board of Regents of the
University of California**

May 16, 1997 Draft

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Outreach Task Force University of California

Draft Task Force Report

(May 16 Draft for Public Comment)

EXECUTIVE SUMMARY

The University of California has a long-standing commitment to the goal of enrolling a student body that encompasses the diversity of the State of California. The University values and seeks diversity. Diversity at the University contributes in a direct and positive way to the educational experience, and also serves to provide opportunity and social mobility to all sectors of society.

In its earliest years, the University focused on geographic diversity by recruiting students from around the State to attend the Berkeley campus. In the 1960s and '70s, the focus on diversity shifted primarily to academic development among racial and ethnic minority groups with low rates of University eligibility.

In July 1995, the University of California Board of Regents passed resolution SP-1, a policy eliminating consideration of race, ethnicity, and gender in admissions. Recognizing the potential impact of SP-1 on diversity in future student enrollment, The Regents established the Outreach Task Force to identify ways in which outreach -- programs to help make prospective students aware of, and prepared for, the educational opportunities of the University -- could be employed to assure that the University remains accessible to students of diverse backgrounds. The charge to the Task Force as specified in SP-1 is

... to develop proposals for new directions and increased funding for the Board of Regents to increase the eligibility rates of those [who are] disadvantage[d] economically or in terms of their social environment (1)

In SP-1, The Regents indicated that this Task Force should include broad statewide representation.⁽²⁾ Thus, the Task Force is comprised of 35 members, including representatives from the UC Board of Regents; faculty, staff, and student representatives from all UC campuses; representatives from business and industry; representatives from the state's major educational sectors, including K-12, California Community Colleges, and the California State University; and officials from State of California agencies, including the California Postsecondary Education Commission and the California Department of Education.⁽³⁾

A. Task Force Findings

The Task Force began its deliberations in February 1996 and immediately initiated a review of the University's current outreach goals, strategies, programs, and activities. In the course of this review, the Task Force collected both statewide and national data on student achievement and the effects of outreach programs aimed at college readiness.^{(4), (5)}

1. Educational Disadvantage: The data reviewed by the Task Force revealed that a significant obstacle to expanding minority enrollment in higher education is educational disadvantage. Review of performance indicators, school-by-school, indicates a continuing pattern of differing outcomes for racial and ethnic groups in California's school system, with groups least represented in higher education concentrated in the most disadvantaged of K-12 schools. Almost 4 out of every 5 students in these schools are either African American, American Indian, or Latino⁽⁶⁾ -- groups with historically low rates of UC eligibility and enrollment. While economic and other factors influence these outcomes, it is clear that the preparation in programs sending few students to the University contributes directly to many of

that the preparation in programs sending few students to the University contributes directly to many of the later differences in college readiness and enrollment. These findings suggest that University outreach programs must focus to a much greater extent on educational disadvantage if they are to continue to be a force for diversity within a post-SP-1 environment. Early intervention also was identified as an important element in this process.

2. Goals for University Outreach: Drawing upon its study and discussions, the Task Force adopted two central goals for UC outreach: 1) Contribute to the academic enrichment of UC campuses through a diverse student body; and 2) improve opportunities for disadvantaged students in California to achieve eligibility and to enroll at UC campuses.

B. Three-Point Strategy for UC Outreach

In response to these findings, the Task Force proposes a three-point outreach strategy to assist students in overcoming educational disadvantages while also attracting to the University a student body broadly representative of the state:

1. School-centered Partnerships: Each UC campus should work intensively with a select number of regional partner schools to help improve opportunities for college preparation and to foster a school culture that supports academic success and high educational standards. Schools identified for these efforts (including high schools and associated "feeder" junior high and elementary schools) should be selected based on evidence of significant educational disadvantage, such as limited availability of college preparatory courses or low college-going rates, but also based on their potential for improvement and their willingness to participate in collaborative efforts. School-centered outreach is a long-term strategy designed to deal with the underlying causes of low UC eligibility and enrollment rates among students in disadvantaged sectors of K-12 education.

2. Academic Development Programs: As an intermediate-term strategy, the Task Force proposes expansion of existing effective academic development programs such as the Early Academic Outreach Program (EAOP), the Puente Project, and the Mathematics, Science, Engineering Achievement program (MESA).⁽⁷⁾ These programs provide special academic enrichment opportunities for K-12 students and already have a record of success, as measured by the number of program participants who subsequently become eligible for, and enroll at, UC and other postsecondary education institutions. In addition to K-12 outreach, the academic development model can be successfully applied in community college as well as undergraduate and graduate student outreach and merits deliberate expansion in these areas.

3. Informational Outreach: Primarily as a short-term strategy, the Task Force recommends an aggressive program of informational outreach to provide better and more timely information to students, families, teachers and counselors to assist in planning and preparation for college. Using a variety of media -- publications, videos, computer technology -- the University should provide materials to assist students and their families, especially during the critical early stages of planning for college. This media program should address the perception in some communities that the University has lessened its commitment to diversity. Students and parents must hear reaffirmation of that commitment and receive information on the University's new plans for outreach supporting this commitment.

The Task Force recommends a comprehensive framework for implementing these three outreach approaches. In addition to the system of regional partnerships noted above, this framework includes: 1) specific numerical outcomes sought for each approach; 2) assignment of responsibility for results; and 3) a resource plan, including identification of new resources required to implement the outreach strategies proposed herein.

C. The Critical Role of Faculty and Teachers

C. The Critical Role of Faculty and Teachers

While additional financial resources will be required, the Task Force believes that one of the most important factors for the success of the outreach approaches proposed involves human resources, particularly faculty and teachers. UC faculty participation in outreach efforts is essential for two reasons. The first involves evaluation and assessment of outreach programs. A problem the Task Force has encountered during its work is the lack of rigorous research and evaluation of outreach program methodology and outcomes. To address this problem, the Task Force recommends charging faculty-based research units, new or existing, to coordinate research, development, and evaluation of University outreach programs. Establishment of such a research unit also could go far in addressing a second problem noted by the Task Force, namely, the fact that outreach often is viewed as a peripheral, rather than a core, University function. By involving UC faculty more centrally in research and in intellectual inquiry focused on the continuum of learning from K-12 through undergraduate and graduate instruction, the Task Force believes that the proposed research unit could help elevate the importance of outreach both within the faculty reward system and within the University as a whole.

At the K-12 level, teachers, counselors, and principals in partner schools must be centrally involved at each stage of the process for "school-centered" outreach to be effective. Teachers are the key to building a school culture that supports high academic standards, and the UC/K-12 partnership efforts will depend in the long run on efforts to recruit, develop, and retain this key group of educators.

D. Conclusion

The Outreach Task Force believes that the comprehensive plan proposed, comprising a balanced set of short-, medium-, and long-range outreach activities, will best enable the University to maintain its goal of a diverse student body. We believe the Task Force's recommendations, if fully implemented, can fulfill The Regents' charge to increase the preparation and enrollment of disadvantaged students at the University.

I. MEETING THE NEEDS OF A DIVERSE POPULATION: A UNIVERSITY OF CALIFORNIA POLICY IMPERATIVE

The University of California welcomes and seeks diversity. The University has long supported outreach programs designed to enhance opportunities for students from diverse backgrounds to enroll at the University. The importance of enrolling a student body that reflects the diversity of the state was recognized as early as 1868 in the Organic Act founding the University of California: "It shall be the duty of the Regents to so apportion the representation of students, when necessary, that all portions of the State shall enjoy equal privilege therein."⁽⁸⁾ Over a century later in 1974, the California Legislature, in a statement of Legislative intent, extended this concept to include not only geographic but other dimensions of diversity: "Each segment of California public higher education shall strive to approximate the general ethnic, sexual and economic composition of the recent high school graduates."⁽⁹⁾ In 1988, The Regents expanded this mandate still further to apply not only to the University as a whole, but to each campus of the University: "The University seeks to enroll, on each of its campuses, a student body that, beyond meeting the University's eligibility requirements, demonstrates high academic achievement or exceptional personal talent, and that encompasses the broad diversity of cultural, racial, geographic, and socio-economic backgrounds characteristic of California."⁽¹⁰⁾

A. K-12 Outreach: Addressing the Academic Preparation Gap

In practice, however, diversity has remained an elusive goal. The main obstacle to achieving a more