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PHOTOCOPY
PRESERVATION

FYI to all
DPC Staff
from EK

THE WHITE HOUSE
WASHINGTON

October 18, 1997

MR. ✓ PRESIDENT:

Please note that many of these
proposals are still in the formative
stage.

Phil Caplan

THE PRESIDENT HAS SEEN
10-21-97

Copied
Reed
Kagan
COS

Blue

I like them very much
and would like to meet up
with them + discuss them
soon to be then soon to
discuss them + a couple of
specific dialogues/feedback
on school/workplace

Alex
Maria

10-21-97

DPC Race Initiative Policy ProposalsEducation

✓ Teaching Initiative -- Previously announced proposal to prepare and recruit teachers for high-poverty urban and rural communities.

✓ Urban Education Initiative -- Select 15-20 urban school districts as Education Opportunity Zones, which would receive additional monies for implementing a program of standards-based school reform, including measures to promote public school choice, end social promotions, remove bad teachers, and reconstitute failing schools. The Department of Education has requested \$320 million for FY 99 for this program.

✓ School Construction Proposal -- Support our own proposal from last year; the Daschle-Gephardt bill; or an alternative approach.

College/School Partnerships -- Propose a grant program to promote strong partnerships between colleges and high-poverty middle and high schools. Through these partnerships, colleges would encourage students to take demanding courses, while providing academic enrichment and intensive mentoring, tutoring, and other support services. The Department of Education has requested \$200 million for FY 99 for this initiative.

✓ Communications Strategy for Maintaining Diversity in Higher Education -- Issue departmental report and give speech or town hall on the value of diversity in higher education; identify and highlight effective outreach and recruitment efforts in report and/or speech; invite educational leaders to White House to discuss the importance of the issue. Do not become Admissions Dean-in-Chief (i.e., do not recommend or endorse particular admissions criteria or strategies).

Attacking Racial Separation Within Schools -- Department of Education report on best practices for helping students reach across racial barriers; grants to support model projects.

Economic Empowerment

✓ Empowerment Zones, Round 2 -- Announce the Second Round Empowerment Zones designees. (There is some interagency dispute about the timing of this proposal, given our inability to come up with grant money to complement the tax incentives.)

✓ Housing Portability -- Announce package of proposals including expanding the home ownership voucher program, encouraging the use of exception rents to open suburban housing markets, eliminating obstacles to portability of Section 8 vouchers, and reducing mortgage denial rates for minorities by working with mortgage and real estate industry.

✓ Fair Lending Initiative -- Announce initiative that might include an examination of

Teaching Initiative
College/School Partnerships

College/School Partnerships
Project X, I guess
JW custom
Do a review
Reluctant to do it

Work through
important

YH

10-21-97

✓ certain lending practices on minorities' access to capital, measures to improve the collection and analysis of data on loan denials, and increased resources for testing and enforcement (see below).

✓ Transportation Infrastructure Development -- Propose tax reforms to stimulate spinoff development from transit projects and aid development of urban intercity bus facilities.

✓ Assisting the Unbanked -- Announce the electronic funds transfer regulation, which may bring up to 10 million individuals into the banking system.

Health

✓ Initiative to Reduce Health Disparities -- Adopt multi-faceted program, largely focused on education and outreach, to reduce racial disparities in heart disease and stroke; breast, cervical, and other cancer; diabetes; infant mortality; AIDS; and immunizations. HHS, OMB, and Chris Jennings are in the midst of developing cost estimates for this initiative.

Crime

✓ Community Policing Initiative -- Target funds from the COPS program to hire new police officers and support community organizations in underprotected high-crime, largely minority neighborhoods (e.g., public housing communities); also use COPS money to promote diversity training for police and establish citizen academies to help community residents understand police procedures; promote minority recruitment in law enforcement through existing grant program.

✓ Community Prosecuting Initiative -- Develop an initiative to give communities an incentive to experiment with community prosecution, which applies the principles of community policing -- neighborhood involvement and a focus on problem solving and prevention -- to this aspect of the criminal justice system.

✓ At-Risk Youth Prevention Efforts -- Devote \$75 million currently in CJS appropriations bill, which we proposed as part of the President's juvenile crime strategy, to targeted programs for at-risk and minority youth (convince DOJ to drop plans for distributing funds by formula); launch a new fight to get crime bill prevention programs funded in next year's budget process.

✓ Indian Country Law Enforcement Initiative -- In line with recommendations of Departments of Justice and Interior (due on October 31), transfer law enforcement authority from BIA to Justice and seek increased law enforcement resources specifically designated for Indian Country.

Civil Rights Enforcement

✓ Enhanced Enforcement Initiative -- Request additional funds for civil rights enforcement,

THE PRESIDENT HAS SEEN

10-21-97

✓ tied to programmatic changes to improve coordination among federal government's civil rights offices, speed resolution of claims, and reduce backlog of cases. This initiative probably will focus on the EEOC. DPC, OMB, and other offices are currently working on cost estimates.

Hate Crimes Initiative -- Announce a package of proposals at the November 10 hate crimes conference, including measures to enhance enforcement of hate crimes laws, improve collection of statistics, initiate educational activities, and amend the current federal hate crimes statute.

Initiatives to Help More Disadvantage Students Prepare and Apply for College

1. Urban School, College and University Partnerships
2. New Early Intervention Program, in addition to TRIO, Talent Search, Upward Bound
3. Think College Early outreach campaign *L hind
aid
info*
4. Title V Teacher Preparation and Recruitment programs
5. Possible Fattah-like proposal
6. Possible urban K-12 schools initiative

Appendix E

Glossary of Outreach Programs and Activities

Outreach Task Force University of California

Student-Centered Outreach Programs

The programs below represent a sampling of the University's outreach programs that focus directly on students and their families. Services typically provided include academic enrichment and support, academic counseling, tutoring, parental involvement, and motivational activities. One of the key objectives of these programs is to provide students with a broad range of educational experiences outside the classroom -- visits to university campuses, internships with local companies and businesses, community service work -- with the expectation that these opportunities will make students' classroom instruction and interactions with teachers and peers more relevant. UC's student-centered programs also work to raise K-12 students' aspirations for college.

Advancement Via Individual Determination (AVID): Begun in San Diego by a high school English teacher, AVID operates in 265 California middle and senior high schools. AVID enrolls educationally disadvantaged students in rigorous college preparatory classes and provides the academic support necessary for them to be successful in those classes and in preparing for college.

Break the Cycle Program: Provides individualized instruction to underrepresented and disadvantaged elementary school students to increase their mastery of math, using UC Berkeley undergraduates as tutors.

Early Academic Outreach Program (EAOP): Established in 1975, EAOP is a University-wide program which operates on each UC campus and in 452 California middle and senior high schools. EAOP is designed to increase the UC eligibility and enrollment rates of disadvantaged students.

Mathematics, Engineering, Science Achievement (MESA): Established in 1970, MESA is partnered with UC, CSU, California community colleges, and independent Universities. MESA operates in 242 California middle and senior high schools and 11 community colleges. MESA is designed to increase the number of disadvantaged students who attend college and pursue majors and careers in math, engineering, computer science, and other science-based fields.

Puente Project: Established in 1981, Puente operates in 39 Community Colleges. The goal of the Puente program is to increase the transfer rate of Puente students to four-year colleges and universities.

High School Puente: Established in 1993, High School Puente currently operates in 18 California high schools. The goal of the High School Puente program is to assist students in high school so they are prepared to enroll in four-year colleges and universities and ultimately return to the community as mentors and leaders.

School-Centered Outreach Programs

UC's school-centered programs build upon the expertise of educational professionals who are working in K-12 schools. These programs focus on assisting and enhancing K-12 schools by providing teacher training in the University's schools of education, providing professional development activities for teachers and administrators, conducting education-related research and policy analyses, developing curricular reforms.

Advanced Reading Leadership Program: Located on the Berkeley campus, this program provides professional development for teachers in the following subject areas: English as a second language, mathematics, science, and computer applications.

Beginning Teacher Support Assessment (BTSA): BTSA's goal is to reduce attrition within the teaching profession. The program employs veteran teachers to advise new teachers and provides a series of structured seminars.

California Subject Matter Projects (CSMP): This program offers on-going teacher professional development through intensive institutes and other programs and workshops in nine different subject areas. In addition to helping teachers deepen their understanding of the subjects they teach, CSMP provides them with an opportunity to analyze relevant research and to share good instructional practices with colleagues.

Center X: Located in the Graduate School of Education and Information Studies at UCLA, Center X conducts educational research and practice relating to urban education. By blending theory and practice related to teacher education and school reform, the Center links its various academic and non-academic professional development programs in collaborative efforts with low-income, urban schools.

Center for Research and Extension Services to Schools (CRESS): Located on the Davis campus, CRESS education extension specialists, education faculty, and California Subject Matter Project Directors work closely with regional schools to build on local expertise and address local issues through innovative programs.

Community Teaching Fellowships (CTF): This project recruits mathematics teachers for schools in low-income, urban areas. In addition, CTF recruits undergraduate and graduate mathematics majors to tutor K-12 students in these schools.

Nexus: Sponsored by the UC Office of The President, in cooperation with the Lawrence Berkeley National Laboratory, Nexus is a new initiative designed to enhance the use of instructional technology by more closely linking campus programs and resources to teachers and counselors through use of

computers and the Internet.

The Puente Project Training Institute: For 16 years, the Puente Project has provided initial and on-going training to teachers and counselors to work effectively with students from families with no college experience. Among the methodologies that Puente has pioneered are strategies for linking academic programs to local communities, methods of integrating cultural literature into the core curriculum, and strategies for successfully teaching students reading and writing in untracked, mixed-skill classes.

Application of Emerging Technologies to Outreach

The programs described below take advantage of recent advances in computer and Internet technology to help students and their families obtain information about, and prepare for, the University.

Articulation System Stimulating Interinstitutional Student Transfer (ASSIST): ASSIST is a computer software program and a database of transfer-related information for California's colleges and universities. The ASSIST software is used to display and maintain the transfer information in the database. The goal of the Project is to provide students and counselors with an easy way to access accurate and complete information about transferring from one California college or university to another.

Gateway: Gateway is designed to provide more efficient access to outreach program data for UC campuses, and access to UC information for middle school and high school students and their families.

Pathways: Based at the UC Office of the President, Pathways is a new electronic guidance and admissions system providing prospective students with an opportunity to gain information about, and apply to, the University over the Internet.

Partnerships and Collaborations

The programs below represent initiatives that link the University and K-12 more closely in meeting mutual outreach aims such as student preparation.

The Berkeley Pledge: Established in 1995, the Berkeley Pledge is designed to maintain student diversity on the Berkeley campus. The Berkeley Pledge has four primary goals: 1) expand recruiting efforts targeted at disadvantaged students; 2) make Berkeley affordable for every student; 3) renew and expand commitment to working with K-14 schools and teachers; and 4) enhance academic support/enrichment programs designed to help undergraduates succeed at Berkeley.

El Paso Collaborative for Excellence: This collaborative includes civic, business, and educational leaders from throughout El Paso county. The collaborative focuses the capacity of El Paso schools to offer a high

quality mathematics and science curriculum and instruction program to all students.

Monterey Bay Educational Consortium (MBEC): Established on the Santa Cruz Campus, the purpose of the MBEC is to bring together K-12 and postsecondary educational institutions in the Monterey Bay Area across levels (K-18) to further collaborative inquiry as well as develop additional cooperative initiatives directed toward improving curriculum, pedagogy, policy, and the public's understanding and support of education.

San Diego K-16 Executive Council: Established to provide a forum for higher education leaders to exchange ideas and work on common projects with K-12 superintendents, community college presidents, and the San Diego County Office of Education.

Urban Community-School Collaborative: Sponsored by the University of California Office of the President, the purpose of the Urban Community-School Collaborative is to help develop and coordinate collaborative efforts of the nine UC campuses with local communities, school districts, and other institutions and agencies throughout California.

Recommended Outreach Programs

The programs described below are in the planning stage, but represent new ways for the University to meet its outreach goals and obligations.

Business MESA: An extension of the MESA model to encourage and guide students toward business-oriented disciplines such as business, accounting, and economics.

Charter Schools: In 1992, the California legislature passed legislation allowing entities to establish charter schools, allowing teachers, parents, business, and/or higher education institutions to petition local school districts for funds to run a public school. Several UC campuses are considering the establishment of charter schools as a way to accelerate the academic development of disadvantaged students.

Electronic a-f: This Universitywide and campus-based initiative is designed to address the problem of limited UC "a-f" course offerings in educationally disadvantaged schools. The University proposes using "distance learning" technology to provide "a-f" courses to students who might not otherwise have access to them.

UC/Community College Transfer Partnership: A Universitywide partnership with California community colleges. The goal of the partnership is to increase the UC transfer rate of students who participated in high school or community college academic development programs.

ACCESS AND OPPORTUNITY FOR DISADVANTAGED STUDENTS OPTIONS

The two programs proposed by Education: the TRIO Early Intervention Program and the Urban School, College, and University Partnerships Program represent different models for helping disadvantaged students complete high school and go on to pursue a postsecondary education. This paper describes these approaches as well as pros and cons associated with them. A third option based on the Eugene Lang model is also described and analyzed.

TRIO Early Intervention - Pull Out Model

The TRIO Early Intervention Program would be based largely on the pull out model followed in the TRIO Upward Bound Program. In this model, colleges and community-based organizations work with selected eligible students in a few targeted schools. These students receive extensive academic instruction, as well as counseling, mentoring, and other support services. There is also an on-campus residential summer program lasting generally from five to eight weeks. While the Upward Bound Program works with high school age students, the Early Intervention Program would provide similar, but not as extensive, services to middle school/junior high school students.

Research shows that skills and aspirations needed to pursue a postsecondary education begin to be formed during early adolescence. There is currently not a TRIO or similar federal program providing intensive levels of service to this critical age group.

Pros

- **The model is proven successful; it is a low-risk approach.**

A recent study of short-term impacts of Upward Bound show that as a result of participating in the program students have higher educational expectations, are better prepared academically, earn more academic credits and have parents who are more involved in their children's school-related activities than comparable non-participants.

Many non-TRIO funded partnership projects have chosen to employ this model, including using it with middle school age children.

Cons

- **Cost per participant is high.**

Cost per participant for the Upward Bound Program is currently \$3,850 per year and is expected to increase to just over \$4,000 per year in FY 1998. Although the program is funded in FY 1997 at \$172.2 million, only 44,750 students nation-wide are served by the 601 funded projects.

A significant portion of the per student cost in Upward Bound results from the on-campus residential summer program. The new Early Intervention Program is not proposing as high a per student cost; at an estimated \$1,000 per participant per year, an appropriation of \$22 million would serve 22,000 students. The summer residential component of Upward Bound will not be a feature of the Early Intervention Program, nor will the services be as intensive.

- **This model does not strengthen the capacity of schools. Therefore, only participating students benefit.**

The model allows for serving only a very small percentage of the eligible population, helping only those selected to participate. Schools having a high percentage of eligible students are not helped to strengthen their capacity to better serve all students.

Urban School, College, and University Partnerships - Systemic Improvement Model

This program would address systemic problems confronting urban education. Unlike the student-focussed pull out model, this model would encourage the formation of partnerships between the urban schools, urban institutions of postsecondary education, as well as community-based organizations and businesses to develop solutions to locally-identified problems and therefore strengthen the capacity of the schools to perform better.

Funds would be targeted on partnerships including urban elementary and secondary schools serving high percentages of under-performing students, therefore concentrating funds on the most problem-plagued urban schools.

Pros

- **This is a capacity-building model which is designed to improve overall school performance therefore impacting all students in partner schools.**

By focussing on strengthening the capacity of the urban schools, this model can have lasting effects on current as well as future students. The model is not designed to invest in providing direct services to individual students, but to develop solutions that can be implemented and maintained by the partnership.

- **The model provides flexibility to identify and prioritize problems.**

Under the proposed Urban School, College, and University Partnership Program, funded partnerships would have considerable flexibility in the problems they seek to address and the solutions they implement. This allows local schools the freedom to prioritize issues, and allows for solutions which reflect the strengths of the partnering groups. It does not impose a "federal solution" to federally-prioritized problems.

Funds would assist the partners in developing programs or services which address problems affecting student performance. These might range from curricular or pedagogical strategies to ameliorating the impact in the school of adverse social conditions such as violence or widespread drug use in the community.

➤ **Community involvement and investment in urban schools is promoted.**

Partnership between urban schools and grantee institutions of postsecondary is a required element. Including in these partnerships, community-based organizations and businesses will strengthen these partnerships. Promoting such partnerships will have an inherently salutary effect.

Cons

➤ **Each funded partnership poses a higher risk of failure than student-based approaches.**

Each funded partnership will be unique and address problems which are difficult to solve. Although the solutions proposed for implementation may be tested elsewhere, the replication of successful solutions is far from an exact science. In other cases, partnerships may propose unique and untested ideas. In addition, partnerships may develop effective solutions, but lack the resources to sustain over time the ongoing services which may be required for successful implementation.

Promise to Pay Combined with Support Services

Proposals which derive largely from the Eugene Lang "I Have a Dream Foundation" are also under consideration as part of the reauthorization process. Like the approach pioneered by Eugene Lang, this would involve working with an entire class of students, such as 6th grade students in high-poverty schools, and include a promise of aid along with individual support services such counseling, mentoring, and tutoring through the 12th grade. Students in lower grades would know that when they reached the 6th grade, the same promise of aid would be extended to them.

Pros

➤ **The model has demonstrated success.**

Students participating in the I Have a Dream Foundation program have completed high school and gone on to college at rates greater than other low-income students.

- **By virtue of its universal approach within each school, it has school-wide impact.**

This approach involves not just a few selected students but an entire class of students. For this reason, the school as a whole is ultimately affected and improved as the class, by and large, improves its attitudes toward school, achieves better academically, and develops higher academic aspirations.

Cons

- **The cost would be very high.**

Replicating the Eugene Lang model intact, entirely with federal funds, would be prohibitively expensive. For this reason, reauthorization ideas have focussed on smaller scale efforts. Providing the needed support services such as counseling, mentoring, and tutoring on a very large scale would not be possible with federal funds alone. (It is estimated that the TRIO Programs, for example, serve no more than 10 percent of the eligible population.)

- **It is unclear whether a federally administered program of this kind would show student success rates similar to the Eugene Lang approach if promises and services were scaled back.**

Due to federal cost constraints the Eugene Lang model could not be replicated as a nationwide federal program; there will be a need to scale back either promises and/or services. The promise of a full Pell may not be sufficient to change behavior. No proven system for providing needed support services on a nationwide scale has been demonstrated.

- **The program would be complex and difficult to administer.**

Students would need to be tracked from 6th grade through the 12th grade and on into college. Such tracking would present administrative complexities which would be costly to operate, particularly since the target population tends to change addresses (hence schools and school districts) more frequently than the average.

- **Federal funds would go to those who would not otherwise be eligible.**

Unlike the other federal student aid programs in which aid is targeted at individuals based upon need, this program would be targeted at entire classes of students within low-income schools. This would result in many students receiving more federal aid than they would otherwise qualify for under the student aid need analysis formula.



The College Board

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Vice President for Communications and Government Relations

August 25, 1997

Mr. Robert Shireman
Senior Policy Advisor
Old Executive Office Building
Room 235
Washington, DC 20502

Dear Bob:

Over the past couple of days, several of our staff in the Washington office have considered your query about pertinent education issues for the consideration of the Administration. We hope that this brief summary provides you with some guidance and information to help you and your colleagues.

First, we realize that federal investment in Pre-K through college is limited, both by virtue of the legislative process and by the limited funding available at the federal level. For these reasons, the federal role has historically focused on specific areas of need, such as low-income and special needs students. We think that this focus is important to insure a positive federal role in education. Our greatest fear is the dilution of current and new initiatives due to expansion beyond the original scope of the programs, such that the net effect becomes negligible.

This said, it seems particularly important to us that current federal programs with proven track records should be continued and expanded to meet current demand. We say this with a number of programs in mind, including the TRIO programs, Pell Grants, and Head Start. During our roundtable discussions on this issue, a clear consensus evolved that the federal government should not "reinvent the wheel," but rather, build upon what has worked well and what we have learned from our failures.

With respect to the three programs noted above, each has clearly served thousands of students with success: **Headstart** at the pre-K level, **TRIO** at the high school, pre-college, and college level, and **Pell Grants** in higher education. The oldest of these programs, TRIO, has enjoyed over 30 years of success. However, current TRIO programs serve only 10 percent of the eligible population. Even in light of the recent proposed increase in TRIO funding, we wonder what could be accomplished if funding was available to serve a much larger audience. The Pell Grant program, as you know, is approaching its 25th anniversary this year. Like TRIO, this program has helped millions of low-income students finance their education since 1972. Unfortunately,

Mr. Robert Shireman, Old Executive Office Building, August 25, 1997

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appropriations for the Pell Grant program have not kept up with cost of college increases since 1980. In fact, our analysis suggests that the Pell Grant lost approximately 35 percent of its purchasing power during that period of time. Headstart, the youngest of the programs, has helped children from around the country prepare for school, many of whom face difficult circumstances.

With these points made, we turn our attention to strategies that may help the Administration develop a consistent and equitable education plan.

The current federal education programs can be divided into four basic areas: pre-K, elementary, secondary, and postsecondary education. Each area has current federal programming to provide assistance for students of need. As mentioned, Headstart for pre-K, and TRIO/Pell for high school to college. One area where the federal government could play a larger and more pivotal role is that of college preparation, specifically, the **middle school years**. Research shows that this age is crucial to future academic and social success for students. It is at this time that many students either dropout or stopout long enough to set them back too far to catch up. There are a number of reasons for this, but three critical factors that stand out include:

- **parental/community involvement**
- **teacher/counselor preparation, and**
- **student motivation and aspiration.**

An appropriate role for the federal government would be to build upon the community initiative sponsored in part by the current Administration this past year. The only true fix to our public education system, especially for urban systems, is for a community makeover. Such a program could offer assistance and encouragement to community groups, local area businesses, and other organizations. Single-parent families, as well as the majority of families with two-working parents, need guidance in supporting their children. Involvement isn't necessarily the hard part—finding a way to become involved is. A federal program could help schools help families through the creation of linkages and opportunities for partnership.

The second suggestion would be additional support for teacher/counselor preparation. The nation simply does not have an adequate teaching force. In the next few years, a huge shortage of teachers is expected nationally due to an aging workforce. Additionally, the teaching force of the future needs to be technically skilled and culturally representative to meet the changing demographics of the land. The federal government can play an important role in attracting new teachers (as currently proposed in the HEA recommendations), but more importantly, can provide assistance to teacher-preparation institutions to develop and teach cutting-edge pedagogies and strategies for learning. Most school districts will tell you that they spend much of their professional development time retraining new teachers.

Counseling is another area that could benefit from federal support. The College Board, in partnership with other education organizations, has researched and developed new standards for guidance counseling to meet the needs of today's youth. It is crucial that both existing and new counselors start working toward these new standards—standards that focus on expansion of opportunity rather than contraction.

Mr. Robert Shireman, Old Executive Office Building, August 25, 1997

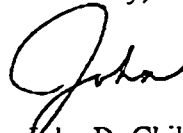
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Finally, middle school students, especially low-income students, must be provided with opportunities that motivate them to excel and achieve. While it may not be possible for the federal government to significantly alter the decaying infrastructure of our nation's schools, it may be able to alter the learning climate through better teaching, increased community partnership, and perhaps the development of grassroots mentoring programs to help "guide" kids through a challenging and critical time in their lives. ✕

Although these "thoughts" are not very specific, we think they are appropriate places for further development of a broad—yet focused—federal education agenda. The development of appropriate strategies in one or more of these areas, in addition to the suggested support of current programs, could help balance the federal effort and help students at critical times during their youth.

We would be pleased to discuss this with you at greater length if you wish. Thank you for the opportunity to reflect and pass on our thoughts.

Sincerely,



John B. Childers
Vice President for Communications and
Government Relations

cc: D. Stewart
L. Gladieux

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Appendix F

Executive Summary

Higher Education Outreach Programs: A Synthesis of Evaluations

Policy Analysis for California Education

Outreach Task Force University of California

This report by Policy Analysis for California Education (PACE) was commissioned by the University of California to inform deliberations of the Outreach Task Force on strategies to enhance University participation by students who are disadvantaged or from groups that have been historically underrepresented. The report reviews evaluations of current outreach programs, identifies effective practices, and makes recommendations for the improvement of programs and of the methods used to evaluate programs.

The report presents an analysis of what has been learned about outreach programs in order to inform deliberations relative to the following questions:

1. What do we know about the effectiveness of current efforts to increase the numbers of underrepresented and disadvantaged students who are well-prepared for higher education? Are there certain practices of program components that rate most effective in college preparation programs?
2. How might the evaluations of outreach programs be improved?
3. What essential principles should be considered in designing college preparation programs for disadvantaged students?
4. What are the implications of these findings for policy decisions on strategies of future outreach efforts?

Chapter II of the report presents information on the flow of students in the K-17 education "pipeline." This information provides parameters on the problem of improving college preparation of disadvantaged students. The data shows that as students reach high school, the performance gap between Black and Latino students and their white and Asian counterparts continues to widen, and their chances for admission to four-year institutions continue to diminish.

Also in Chapter II is a discussion of the "barriers" to University participation of disadvantaged students. The following are frequently cited barriers: lack of information about higher education opportunities; insufficient counseling and advisement; tracking of students in courses that do not prepare them for

college; admissions test requirements; course-taking patterns; under-prepared teachers; low aspirations/expectations/motivation; and the costs of higher education.

Chapter III provides a broad review of programs, focusing on the evaluation findings pertaining to program effectiveness and efficiency. The review is organized by clusters of programs with brief summaries of evaluation findings for examples of various types of programs -- University of California systemwide programs as well as other programs in California and nationally.

Four clusters of programs are included: 1) programs which are primarily student-centered; 2) programs which combine student-centered approaches with enhanced student financial aid; 3) programs which combine student-centered and school-centered strategies; and 4) programs which are school-centered.

In Chapter IV we discuss effective practices and suggest essential principles for designing student-centered and school-centered programs. The following essential principles about student-centered strategies are discussed:

1. Student-centered programs provide a "bridge" to higher education for minority students.
2. Strategically timed interventions can make a difference.
3. Comprehensive student-centered interventions seem more effective than single-component strategies.
4. Student-centered interventions are more effective when sustained over time.
5. Outreach programs are more effective when they are well-integrated with K-12 schools, instead of operating at the margins.
6. Some components of student-centered programs seem effective and especially feasible for higher education institutions to provide. These include the following:
 - a) early information about preparing for college;
 - b) family involvement;
 - c) academic counseling;
 - d) tutoring and mentoring;
 - e) study skills and specific academic skills;
 - f) transitions programs and summer residential programs; and,
 - g) college admissions and placement test preparation

The following essential principles are discussed about school-centered strategies:

1. School-centered programs can provide staff development that helps teachers support students' success in college-preparatory courses;

2. School-centered programs can improve the quality of curriculum and teaching in core academic subjects;
3. School-centered strategies can help enhance the academic culture of K-12 schools;
4. Professional development programs can help improve the quality of teaching in low-performing schools.

In Chapter V is a review of current program evaluation strategies with suggestions to improve future evaluations. Five essential principles about evaluation of outreach programs are discussed. These are:

1. A student information system is needed for program evaluation.
2. Program goals and intended outcomes must be defined. It is suggested that a useful distinction can be made between short-term, intermediate-term and long-term outcomes.
3. Program interventions must be clearly described and implemented.
4. Evaluations must be carefully designed to attribute results to interventions.
5. Evaluations should connect outcomes and cost.

Chapter V also recommends a research agenda for evaluating program effectiveness that includes a multi-level, multi-method approach.

In Chapter VI we discuss implications for the University's outreach policies. Strategies to enhance diversity at the University are discussed in terms of short-term, intermediate-term and long-term strategies. Four short-term strategies are suggested. These are: 1) increasing the eligibility pool by focusing on students who are "almost" eligible for admissions and encouraging these students to take admissions tests; 2) focusing recruitment efforts on underrepresented students who already meet eligibility requirements; 3) increasing community college transfer; and 4) better feedback to high schools about postsecondary performance of their students.

Intermediate-term strategies would focus on enhancing the effectiveness of current student-centered programs -especially EAOP and MESA, which are the University's largest programs, but also some of the other promising comprehensive programs' such as AVID and High School Puente. It is recommended that the University institute professional development activities focusing on the effective implementation of key components of student-centered programs.

Long-term strategies should focus on school-centered programs including professional development efforts and assistance to low-performing schools in an improvement strategy.

The state of California needs to mount a massive effort to build the capacity of the K-16 education system to provide an "opportunity to learn" to all students. The University needs to define its systemwide role within that plan, and each of the University's campuses needs to play a part. The University must develop a framework for program coordination and service delivery as well as a framework for program evaluation so that there will be a coherent approach to increasing the number of underrepresented,

disadvantaged students who attend and are successful at the University.

IN THE
Supreme Court of the United States
OCTOBER TERM, 1997

BOARD OF EDUCATION OF THE TOWNSHIP OF PISCATAWAY,
Petitioner,

v.

SHARON TAXMAN,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

BRIEF OF *AMICI CURIAE* AMERICAN COUNCIL ON EDUCATION, AMERICAN ASSOCIATION FOR HIGHER EDUCATION, AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS, AMERICAN ASSOCIATION OF COMMUNITY COLLEGES, AMERICAN ASSOCIATION OF DENTAL SCHOOLS, AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, ASSOCIATION OF AMERICAN LAW SCHOOLS, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, ASSOCIATION OF AMERICAN UNIVERSITIES, ASSOCIATION OF CATHOLIC COLLEGES AND UNIVERSITIES, ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES, ASSOCIATION OF GOVERNING BOARDS OF UNIVERSITIES AND COLLEGES, COLLEGE AND UNIVERSITY PERSONNEL ASSOCIATION, COUNCIL FOR ADVANCEMENT AND SUPPORT OF EDUCATION, COUNCIL OF GRADUATE SCHOOLS, COUNCIL OF INDEPENDENT COLLEGES, HISPANIC ASSOCIATION OF COLLEGES AND UNIVERSITIES, NASFA: ASSOCIATION OF INTERNATIONAL EDUCATORS, NATIONAL ASSOCIATION FOR COLLEGE ADMISSIONS COUNSELING, NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY BUSINESS OFFICERS, NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES, NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES, AND NATIONAL ASSOCIATION OF STUDENT PERSONNEL ADMINISTRATORS, IN SUPPORT OF PETITIONER

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IN THE
Supreme Court of the United States

OCTOBER TERM, 1997

No. 96-679

BOARD OF EDUCATION OF THE TOWNSHIP OF PISCATAWAY,
Petitioner,

v.

SHARON TAXMAN,
Respondent.

**On Writ of Certiorari to the
United States Court of Appeals for the Third Circuit**

**BRIEF OF *AMICI CURIAE* AMERICAN COUNCIL ON
EDUCATION, *ET AL.* IN SUPPORT OF PETITIONER**

STATEMENT OF INTEREST OF *AMICI CURIAE*¹

The *amici* are national associations that represent public and independent higher education institutions and educators who serve those institutions. For decades *amici* have been working to achieve diversity in American higher education. They have done this for two reasons: they know from deep experience that with greater diversity comes better education; they also know that diversity advances knowledge in ways that break down stereotyped preconceptions, thereby preparing young people for our pluralistic society.

¹ Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for a party authored this brief in whole or in part and no person, other than *amici*, their members, or their counsel made a monetary contribution to the preparation or submission of the brief. This brief is submitted with the consent of all of the parties and letters of consent from counsel for the parties have been filed with the Clerk.

Amicus American Council on Education ("ACE") represents all sectors of American higher education. Its approximately 1700 members include a substantial majority of the colleges and universities in the United States. Among its many initiatives to advance diversity, ACE had a major role in establishing the Commission on Minority Participation in Education and American Life, co-chaired by former Presidents Ford and Carter, which issued a report on minority matriculation, retention, and graduation, entitled *One-Third of a Nation*.

The other *amici* on this brief are the American Association for Higher Education (represents over 8,700 faculty, administrators, students, trustees, and others; works to improve undergraduate education), American Association of Collegiate Registrars and Admissions Officers (promotes standards and practices in enrollment and instructional management), American Association of Community Colleges (represents 1,100 two-year institutions), American Association of Dental Schools (represents all 55 U.S. dental schools), American Association of State Colleges and Universities (represents over 370 state colleges and universities; sponsors research and publishes reports on higher education), American Association of University Professors (represents some 44,000 faculty members and research scholars; defends academic freedom and the free exchange of ideas in higher education), Association of American Law Schools (represents law schools and serves as law teachers' learned society; works to improve the legal profession through legal education), Association of American Medical Colleges (represents all 125 accredited U.S. medical schools), Association of American Universities (represents 62 major research universities), Association of Catholic Colleges and Universities (represents 211 colleges and universities), Association of Community College Trustees (represents over 6,000 board members who govern community, technical, and junior colleges), Association of Governing Boards of Universities and Colleges (serves some 32,000 trustees, regents, and other senior administrators responsible for 1,700 colleges, universities, and independent

schools), College and University Personnel Association (represents more than 1,800 college and university human resource departments), Council for Advancement and Support of Education (represents over 3,000 education institutions and other organizations), Council of Graduate Schools (represents over 400 universities enrolling 85% of U.S. graduate students), Council of Independent Colleges (represents over 400 independent liberal arts colleges and universities), Hispanic Association of Colleges and Universities (represents over 200 institutions enrolling two-thirds of Hispanic Americans in higher education), NASFA: Association of International Educators (represents 8,000 international educators), National Association for College Admissions Counseling (represents nearly 6,500 admissions and financial aid officers and counselors), National Association for Equal Opportunity in Higher Education (represents the nation's 117 historically black colleges and universities), National Association of College and University Business Officers (represents chief administrative and financial officers at over 2,100 institutions), National Association of Independent Colleges and Universities (represents 840 independent colleges and universities on public policy issues before the federal government), National Association of State Universities and Land-Grant Colleges (represents over 170 public research universities), and National Association of Student Personnel Administrators (serves student affairs administrators at all levels).

Because of *amici*'s understanding of the crucial importance of diversity in education, they view the decision below with alarm. The court of appeals condemned all diversity-based programs that involve faculty, notwithstanding that the court had no record upon which to judge either the educational value of such programs or the extent to which the programs serve compelling interests and advance the goals of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (1994 & West Supp. 1997). *Amici* therefore file this brief to (1) explain the importance of diversity in education and the strong consensus of educators that supports it; (2) argue that properly constructed diversity programs do in fact meet the

requirements of Title VII; (3) ask the Court to reject the unnecessarily broad pronouncement of the court of appeals.

SUMMARY OF ARGUMENT

The court of appeals acknowledged that "the benefits flowing from diversity in the educational context are significant indeed." (Pet. App. at 44a.) It nevertheless concluded that any reliance on race for purposes of creating diversity is impermissible, because "a non-remedial affirmative action plan cannot form the basis for deviating from the antidiscrimination mandate of Title VII." (*Id.* at 43a.)

The court of appeals was wrong to decide whether diversity could *ever* justify consideration of race under Title VII. It should instead have decided only whether diversity justified the action taken in this case. *Amici* believe that the court of appeals failed to take into account the critical purposes diversity in education serves, both in improving the quality of education and in fostering the mutual regard on which effective education depends.

The data showing those educational benefits make clear that many cases of "non-remedial" diversity-based consideration of race would be permissible under Title VII. That is so for two reasons. First, many diversity-based decisions in education have been narrowly tailored to serve compelling interests, thereby meeting the constitutional standard. And because they meet the constitutional standard, they satisfy Title VII. Second, and in any event, because diversity-based decisions that take race into account often further the goals of Title VII by breaking down intolerance and discriminatory preconceptions, such decisions pass muster under the standard announced in *United Steelworkers of America v. Weber*, 443 U.S. 193 (1979).

Because many diversity-based decisions made by educators would meet that standard, the Court should reject the court of appeals' categorical denunciation of all such decisions. The Court also should clarify the standard for such decisions, but should expressly leave for another day the permissibility of

using diversity in other contexts, such as Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* (1994 & West Supp. 1997), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1134 *et seq.* (1994 & West Supp. 1997).

ARGUMENT

I. DIVERSITY IMPROVES EDUCATION.

The primary evidence of the beneficial effects of diversity in education comes in two forms. First, social science research provides concrete findings of measurable positive effects of diversity on educational outcomes. Second, there is a strong consensus among educators, representing a broad spectrum of institutions, that diversity is essential to the institutions' missions. Both kinds of evidence support the conclusion that diversity improves education and advances the goals of imparting knowledge where there was preconception, and fostering mutual regard where there was hostile stereotype.

"Diversity" can of course signify many things, but to educators it generally denotes the quest for heterogeneity of backgrounds, experiences, beliefs, and viewpoints at their institutions. Educators seek diversity in a variety of categories, such as geography, economic status, intellectual interest, language, area of talent, gender, age, religion, nationality, culture, race, and ethnicity. Educators value diversity among both faculty and students, and in primary and secondary as well as higher education. Because this case involves the pursuit of racial diversity, we focus on that dimension. Unless otherwise stated, we mean here racial and ethnic diversity.

Amici recognize that faculty, not student, diversity is before the Court here, and that there can be salient distinctions between the two. Nevertheless, for several reasons we refer in this brief to both kinds of diversity. First, much of the evidence analyzing the value of diversity in the educational setting addresses it as an institutional matter and therefore necessarily considers both student and faculty diversity. Second, that evidence shows that the benefits of student and

faculty diversity are often the same. And third, the two kinds of diversity are interrelated and mutually reinforcing. For example, as noted below, a growing body of research findings shows that faculty diversity is valuable not only in itself but also as a key factor in maintaining student diversity.²

Recent studies have addressed whether recruitment of a racially diverse faculty and student body contributes to broader institutional efforts to educate students. The studies find that such diversity initiatives produce concrete educational benefits for white as well as minority students. In one study, Alexander Astin surveyed 25,000 students in 217 four-year colleges over four years, assessing attitudes, values, beliefs, career plans, achievement, and degree completion. He analyzed, among other things, how students were affected by "Institutional Diversity Emphasis," a concept that embodies five measures of a college's pursuit of diversity goals, including the institution's commitment to increasing the number of minority faculty and students. Alexander W. Astin, *Diversity and Multiculturalism on the Campus: How are Students Affected?*, 25 Change 44, 45 (Mar./Apr. 1993).

Astin concluded that "a strong emphasis on diversity" is associated with "widespread beneficial effects on a student's cognitive and affective development." *Id.* at 48. "[T]he weight of the empirical evidence," he found, "shows that the actual effects on student development of emphasizing diversity and of student participation in diversity activities are overwhelmingly positive." Alexander W. Astin, *What Matters in College?* 431 (1993). The research shows that students who interact more with students of different backgrounds and are given an opportunity to discuss issues of race and culture tend to be more successful in college. Direct student experiences with diversity, including socializing with

² Much of what we describe here applies to both higher and secondary education. However, because the expertise of *amici* is in higher education, we focus on that context.

members of other ethnic groups and participating in activities designed to promote cultural awareness, are positively associated with many measures of academic development and achievement. Astin, *Diversity and Multiculturalism on the Campus*, at 46.

Students, particularly whites, who socialize across racial groups express greater satisfaction with the college experience. Octavio Villalpando, *Comparing the Effects of Multiculturalism and Diversity on Minority and White Students' Satisfaction with College* 12 (Nov. 9, 1994) (paper presented at the Annual Meeting of the Association for the Study of Higher Education, Nov. 10-13, 1994). Undergraduates who study with students from a different racial or ethnic group report greater growth in their acceptance of people of different races and cultures, cultural awareness, and tolerance of people with different beliefs. Sylvia Hurtado, *Linking Diversity and Educational Purpose: How the Diversity of the Faculty and Student Body May Impact the Classroom Environment and Student Development* 8-9 (paper presented at Civil Rights Project Conference on Non-Racial Standards and Minority Opportunity, Harvard Univ., Apr. 1997).

Research findings also show positive effects of racially diverse educational experiences on students' subsequent behavior at work and in the world at large. Attendance at a racially mixed school affects decisions that students, both white and black, subsequently make concerning with whom they choose to work and socialize. Marvin P. Dawkins & Jomills Henry Braddock II, *The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society*, 63 J. of Negro Educ. 394, 403 (Summer 1994). Both blacks and whites who attend racially mixed schools are more likely to work in racially mixed firms. Blacks from racially diverse elementary schools are more likely to have white social contacts, live in integrated neighborhoods, and evaluate white co-workers positively. *Id.*

Other studies are consistent with these findings. Thus, it has been shown that a person's prejudice towards stigmatized groups, such as mental patients or people with AIDS, is lessened by personal contact with members of the group. See, e.g., Donna M. Desforges et al., *Effects of Structured Cooperative Contact on Changing Negative Attitudes Toward Stigmatized Social Groups*, 60 J. of Personality and Soc. Psych. 531 (1991); James L. Werth & Charles G. Lord, *Previous Conceptions of the Typical Group Member and the Contact Hypothesis*, 13 Basic and Applied Soc. Psych. 351 (1992). Such studies support earlier findings that the interactions made possible by diversity lessen prejudice. Recruitment and retention of minority faculty members contributes to an "environment of racial tolerance and equality on our campuses," by exposing non-minority students to minority faculty. Walter E. Massey, *If We Want Racially Tolerant Students, We Must Have More Minority Professors*, The Chronicle of Higher Educ. 76 (July 15, 1987).

Efforts to achieve faculty diversity strongly support these positive effects. A study of 743 professional graduate programs conducted in the 1970s, as blacks were beginning to enter such programs in greater numbers, concluded that "the presence of black faculty may be the most important contributor to successful recruitment, enrollment, and graduation of black students." James E. Blackwell, *Mainstreaming Outsiders: The Production of Black Professionals* 106 (1981). An institution's commitment along various dimensions to diversity supports retention of minority students. Morgan Appel et al., *The Impact of Diversity on Students: A Preliminary Review of the Research Literature* ix (Ass'n of Am. Colleges and Universities 1996).

Other studies support Astin's conclusions about the benefits of institutional commitment to diversity, integral to which is hiring minority faculty. For example, research has found that such a commitment is linked with student academic success and relatively low racial tensions on campus. Daryl G. Smith et al., *Paths to Success: Factors*

Related to the Impact of Women's Colleges, 66 J. of Higher Educ. 245 (May/June 1995); Hurtado, *Linking Diversity and Educational Purpose*. Overall, the research indicates a powerful positive impact of diversity initiatives on minority and white students. Appel, *The Impact of Diversity on Students*, at ix.

Consistent with the research findings, there has long been a broad consensus among leading educators that diversity has a profound impact on the quality of education. As President William Bowen of Princeton University stated, in an essay quoted by Justice Powell in *Regents of University of California v. Bakke*, 438 U.S. 265 (1978):

[T]he overall quality of the educational program is affected not only by the academic and personal qualities of the individual students who are enrolled, but also by the characteristics of the entire group of students who share a common educational experience. * * * [A] great deal of learning occurs informally * * * through interactions among students of both sexes; of different races, religions and backgrounds; who come from cities and rural areas, from various states and countries; who have a wide variety of interests, talents and perspectives; and who are able * * * to learn from their difference and to stimulate one another to reexamine even their most deeply held assumptions about themselves and their world.

William G. Bowen, *Admissions and the Relevance of Race*, Princeton Alumni Weekly 7, 9 (Sept. 26, 1977).

Many higher education leaders have identified the "educational value of a learning environment that include[s] students from different backgrounds and perspectives." Harold T. Shapiro, *Affirmative Action: A continuing discussion —A continuing commitment*, Princeton Weekly Bulletin (Oct. 16, 1995). The president of Harvard University has observed:

A diverse educational environment challenges [students] to explore ideas and arguments at a deeper level—to see

issues from various sides, to rethink their own premises, to achieve the kind of understanding that comes only from testing their own hypotheses against those of people with other views.

Neil L. Rudenstine, *Why a Diverse Student Body is So Important*, *The Chronicle of Higher Educ.* B1 (Apr. 19, 1996). The president of Stanford University stated:

First, we want a rich educational environment to challenge our students. Students learn much from one another. Second, we want to be faithful to our task to educate leaders for a diverse and complex society—a society that will, we hope, overcome the undue tendencies toward stratification. This cannot be done unless the country's demographic diversity finds a presence on campus.

Gerhard Casper, *Statement on Affirmative Action at Stanford University* 5-6 (Oct. 4, 1995). The President of the University of Michigan said:

We know that diversity is an advantage because we have seen our academic standards rise, not drop.

See American Council on Educ., *Making the Case for Affirmative Action in Higher Education: What You Can Do to Safeguard Affirmative Action on Campus and in Your Community* 21 (June, 1996); *id.* at 19-23 (reporting public statements by the presidents of Duke, Williams College, University of Texas at Dallas, Harvard, University of Akron, Princeton, Massachusetts Institute of Technology, University of Michigan, Stanford, City University of New York, Claremont Colleges, the University of North Carolina, and the Regents of the University of Maryland).

This strong commitment to diversity is shared by leaders of higher education institutions of every type.³ For example, the American Association of State Colleges and Universities

³ A letter indicating a commitment to diversity sent by a broad coalition of 23 higher education associations is reprinted in *Making the Case for Affirmative Action*, at 27-29.

("AASCU") noted its members' belief that "fostering diversity and respect for difference is a fundamental goal of higher education and should be among the highest priorities of every university." American Ass'n of State Colleges and Universities, *Policy on Racism and Campus Diversity* (Mar. 1989). "[F]aculty members from diverse backgrounds bring multiple perspectives and often different foci for teaching and research to the campus." American Ass'n of State Colleges and Universities, *Access, Inclusion and Equity: Imperatives for America's Campuses* 32 (1997).

Likewise, the Association of American Universities, which includes 60 of the country's most prestigious research universities, has announced its members' belief that diversity is "central to the very concept of education in our institutions." See *On the Importance of Diversity in University Admissions*, The N.Y. Times, Apr. 24, 1997, at A27 ("AAU Statement"). The AAU members stated that without diversity "the quality and texture of * * * education * * * will be significantly diminished," and warned that substantial restrictions on the institutions' pursuit of diversity would impinge on their ability to educate:

A very substantial portion of our curriculum is enhanced by the discourse made possible by the heterogeneous backgrounds of our students. Equally, a significant part of education in our institutions takes place outside the classroom, in extracurricular activities where students learn how to work together, as well as to compete; how to exercise leadership, as well as to build consensus. If our institutional capacity to bring together a genuinely diverse group of students is removed—or severely reduced—then the quality and texture of the education we provide will be significantly diminished.

Id. The AAU Statement explained how higher education institutions strive to achieve diversity:

For several decades—in many cases, far longer—our universities have assembled their student bodies to take into account many aspects of diversity. The most effective admissions processes have done this in a way

that assesses students as individuals, while also taking into account their potential to contribute to the education of their fellow-students in a great variety of ways. We do not advocate admitting students who cannot meet the criteria for admission to our universities. We do not endorse quotas or "set-asides" in admissions. But we do insist that we must be able, as educators, to select those students—from among many qualified applicants—who will best enable our institutions to fulfill their broad educational purposes.

Id. See also American Ass'n of Community Colleges, *Statement on Inclusion* (Apr. 12, 1997); American Council on Educ. Bd. of Directors, *Statement on Affirmative Action and Diversity* (May 25, 1995) ("A diverse faculty and staff is essential for colleges and universities to provide quality in teaching, scholarship, and service to the campus and the community."); Amherst College, *Statement on Diversity* (May 25, 1996); Council of Graduate Schools, *Building an Inclusive Graduate Community: A Statement of Principles*, 30 Communicator 1 (June 1997); American Ass'n of Univ. Professors, *Affirmative Action*, *Academe* 38 (July-Aug. 1997).

Educators are committed to diversity both for its effects on the quality and effectiveness of education within the academy and for its role in fostering lifelong tolerance and mutual respect, a fundamental purpose of education. "We simply must learn to work more effectively and more sensitively with individuals of other races," President Bowen wrote in the essay Justice Powell cited,

and a diverse student body can contribute directly to the achievement of this end. * * * If people of different races are not able to learn together in this kind of setting, and to learn about each other as they study common subjects, share experiences, and debate the most fundamental questions, we shall have lost an important opportunity * * *.

Bowen, *Admissions and the Relevance of Race*, at 10. See also *Making the Case for Affirmative Action*, at 23. This contact engenders appreciation of differences and teaches students that racial differences often mask deeper similarities. Rudenstine, *Why A Diverse Student Body Is So Important*, at B2.

Educators' belief about the benefits of diversity in the academy is not new. As President Rudenstine has shown, educators began to discuss diversity and the idea it signifies at least "as early as the mid-nineteenth century." Harvard Univ., *The President's Report 1993-1995*, at 3 (undated). John Newman recognized the importance of colleges at which "a multitude" of students would "come together and freely mix with each other" and where "they are sure to learn one from another, even if there be no one to teach them." *Id.* at 4. And Harvard president Felton wrote on the eve of the Civil War that gathering students "from different and distant States must tend powerfully to remove prejudices, by bringing them into friendly relations." He added: "Such influences are especially needed in the present disastrous condition of public affairs." *Id.*

In sum, educators' experience with diversity demonstrates its value in enhancing the quality of the academic experience and combating intolerant, discriminatory viewpoints. As next discussed, the wisdom of the most informed experts is entitled to considerable deference in the Court's review.

II. THE STRONG EDUCATIONAL CONSENSUS SUPPORTING DIVERSITY IS ENTITLED TO DEFERENCE FROM THIS COURT.

For several reasons, the Court should give great weight to the findings of educators that diversity is critical to educational quality. First, these determinations are made at the core of academic freedom and as the Court has recognized are a First Amendment concern. Academic freedom safeguards not only "[t]eachers and students [who] must always remain free to inquire, to study and to evaluate," *Keyishian v. Board of Regents of Univ. of N.Y.*,

385 U.S. 589, 603 (1967) (quoting *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957)); it also protects "autonomous decisionmaking by the academy itself." *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 n.12 (1985). The historic independence of the academy is composed of "'four essential freedoms' of a university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study." *Bakke*, 438 U.S. at 312 (opinion of Powell, J.) (quoting *Sweezy*, 354 U.S. at 263 (Frankfurter, J., joined by Harlan, J., concurring in the result)). "[W]ho may teach" and "who may be admitted to study" are paradigmatic examples of academic judgment. This is particularly so when the judgments address what composition of the faculty or student body will best promote academic goals such as improving educational achievement and confronting intolerance.

A second reason to defer to educators' conclusion that diversity improves education is that such matters "require 'an expert evaluation of cumulative information and [are] not readily adapted to the procedural tools of judicial or administrative decisionmaking.'" *Ewing*, 474 U.S. at 226 (quoting *Board of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 89-90 (1978)).

The final reason for deference is the "vital national tradition" of pluralistic local decisionmaking in education, *Dayton Bd. of Educ. v. Brinkman*, 433 U.S. 406, 410 (1977), a tradition founded in the earliest experience of the Republic. See *Milliken v. Bradley*, 418 U.S. 717, 741-42 (1974) ("No single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to *quality of the educational process*." (emphasis added); *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 16 (1971) ("School authorities are traditionally charged with broad power to formulate and implement educational policy * * *"). American colleges

and universities, which attract some half-million students from other nations, are the envy of the world in part because of our virtually unique tradition of governmental deference to educators' judgment about how the work of educating should be conducted.

III. NARROWLY TAILORED PROGRAMS DESIGNED TO PROMOTE DIVERSITY ARE PERMISSIBLE UNDER TITLE VII.

Because the court of appeals failed to acknowledge the powerful educational consensus supporting diversity, it failed to accord it legal significance or deference. That consensus demonstrates two ways in which properly constructed diversity programs are permissible under Title VII. First, such programs serve compelling interests that meet stringent constitutional standards and thus necessarily also meet Title VII standards; and second, diversity-based initiatives can be crafted to meet Title VII by advancing statutory goals and minimizing burdens on third parties.

A. Such Plans Are Permissible Under Title VII Because They Satisfy Constitutional Standards.

Promoting educational goals by pursuing faculty diversity furthers a compelling interest, and carefully crafted race-conscious programs, properly conducted, can be narrowly tailored to achieve that interest. And because a race-conscious policy that meets the constitutional standard would also meet Title VII, the court of appeals was wrong to reject all such efforts out of hand.

1. The Court's precedents and the consensus among educators show that diversity in education serves a compelling interest.

The Court has never held that the Constitution bars education institutions from deciding for educational reasons to pursue a racially diverse faculty. Indeed, the Court's precedents strongly support the proposition that promoting faculty diversity serves a compelling interest.

First, in the only case in which the Court has addressed the legality of pursuing faculty diversity, a majority of the Court implicitly or explicitly endorsed its constitutionality. In *Wygant v. Jackson Board of Education*, four justices expressly would have held that faculty diversity is a compelling interest. See 476 U.S. 267, 306 (1986) (Marshall, J., joined by Brennan and Blackmun, JJ., dissenting); *id.* at 315 (Stevens, J., dissenting). Justice O'Connor, while not expressly agreeing, was careful to distinguish the "role model" theory offered to justify the affirmative action plan in that case from the very different goal of promoting racial diversity among the faculty, *id.* at 288 n. * (O'Connor, J., concurring in part and concurring in the judgment), and observed that diversity had already been found "compelling," at least in the context of higher education," *id.* at 286.

Second, the Court has endorsed the proposition that higher education institutions have a compelling interest in a diverse student body. In fact, the Court expressly endorsed Justice Powell's *Bakke* opinion in *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547, 568 (1990). Although the level of scrutiny applied to federal programs in *Metro Broadcasting* was overruled in *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995), the Court in *Adarand* did not overturn *Bakke* regarding diversity. See *id.* at 258 (Stevens, J., joined by Ginsburg, J., dissenting); see Akhil Reed Amar & Neal Kumar Katyal, *Bakke's Fate*, 43 UCLA L. Rev. 1745, 1768 (1996).⁴

⁴ The United States has consistently held that use of race as a factor in narrowly tailored decisions regarding student admissions and financial aid is constitutional. See, e.g., 34 C.F.R. § 100.3(b)(6)(ii) (1996); Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964, 59 Fed. Reg. 8756, 8760-62 (Dep't of Educ. Policy Guidance Feb. 23, 1994); Letter from Judith A. Winston, Gen. Counsel, Dep't of Educ. to College and Univ. Counsels 2 (Sept. 7, 1995); Letter from Judith A. Winston, Gen. Counsel, Dep't of Educ. to College and Univ. Counsels 1 (July 30, 1996); Letter from Walter Dellinger, Acting Solicitor Gen. to Judith A. Winston, Gen. Counsel, Dep't of Educ. 2 (Apr. 10, 1997).

The principles the Court relied on in *Bakke* apply to the interest in a diverse faculty. Justice Powell's opinion set forth two reasons for finding a compelling interest in student diversity. The opinion cited "[t]he freedom of a university to make its own judgments as to education" and noted that student diversity was "widely believed" to enhance the quality of education. *Bakke*, 438 U.S. at 312. Decisions involving faculty implicate both principles. Further, as discussed above, a diverse faculty advances the same educational goals that Justice Powell found were "widely believed" advanced by student diversity.

Finally, as Justice Stevens has noted and as the data cited in Section I show, values such as racial understanding and tolerance are best learned through direct contact with those towards whom students may previously have held prejudiced beliefs. *See supra* pp. 7-8. There is no substitute for this direct experience. "It is one thing for a white child to be taught by a white teacher that color, like beauty, is only 'skin deep'; it is far more convincing to experience that truth on a day-to-day basis during the routine, ongoing learning process." *Wygant*, 476 U.S. at 315 (Stevens, J., dissenting). The educational benefit of diversity is derived not from an assumption that all members of one race think alike or that race is a proxy for a particular point of view, but rests instead on the finding that diversity enables students to discover the falsity of such stereotyped assumptions. "[O]ne of the most important lessons that the American public schools teach is that the diverse ethnic, cultural and national backgrounds that have been brought together in our famous 'melting pot' do not identify essential differences among the human beings that inhabit our land." *Id.*

Each of these interests, as described by several Members of the Court, is sufficiently compelling to justify consideration of race as one factor in decisions about faculty as well as students. Further, as we argue in the following sections, educators can make such decisions in a manner that is narrowly tailored and is consistent with the Constitution and Title VII.

2. Race-conscious programs, properly conducted, can be narrowly tailored means to achieve this compelling interest.

The guidelines the Court in *Bakke* set forth for narrowly tailored race-conscious student admissions are pertinent in the faculty context. To begin with, racial quotas and separate hiring procedures have been found impermissible.

In * * * an admissions program, race or ethnic background may be deemed a "plus" in a particular applicant's file, yet it does not insulate the individual from comparison with all other candidates for the available seats.

Bakke, 438 U.S. at 317.

Bakke is consistent with the Court's subsequent discussions of narrow tailoring of race-conscious action in other contexts. The Court has identified at least four factors to be considered: (1) the necessity of the relief and the efficacy of alternative remedies; (2) the relationship of the numerical goals to the relevant labor market; (3) the flexibility and duration of the relief, including availability of waiver provisions; and (4) the impact of the relief on rights of third parties. *United States v. Paradise*, 480 U.S. 149, 171 (1987) (plurality opinion); *id.* at 187 (Powell, J., concurring); *see also* Memorandum from Walter Dellinger, Assistant Attorney Gen., Dep't of Justice to General Counsels 10 (June 28, 1995). Programs aimed at achieving faculty diversity can account for each factor.

First, race-conscious initiatives are a necessary means to achieve the institutional goals of educators, and no alternative "remedy" can achieve the racial diversity necessary to accomplish these goals. The education community has carefully considered whether programs based on factors other than race, such as income or geography, could be effective. Powerful evidence shows that use of solely race-neutral factors simply could not produce the racial diversity needed for critical educational interactions at selective universities. *See* Theodore Cross, *Why the Hopwood Ruling Would*

Remove Most African Americans From the Nation's Most Selective Universities, J. of Blacks in Higher Ed. 66 (Spring 1996) ("[A] new law requiring race-blind admissions would very likely produce freshman classes that would be little more than 1 percent black."); Thomas J. Kane, *Racial and Ethnic Preference in College Admissions* 20 (unpublished manuscript, Harvard University, Mar. 1997) (finding, based on extensive analysis, that "'class' will be a very poor substitute for race for a college seeking racial balance"); Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions*, 72 N.Y.U. L. Rev. 1, 19-27 (1997) (showing that minority admissions to ABA accredited law schools would decrease significantly if race-neutral criteria were used); William G. Bowen, No Limits 18, 37 in *The American University: National Treasure or Endangered Species?* (Ronald G. Ehrenberg ed., 1997) (Transcript of speech at Cornell University, May 21, 1995) (finding that use of exclusively race-blind criteria at selective universities would reduce black enrollment from approximately eight to two percent). Thus, "alternative remedies" to race-conscious affirmative action are not available. See *Paradise*, 480 U.S. at 171.

Diversity-based programs should also take into account appropriate goals. *Id.* One principle that defines these goals is that the number of individuals from a group must be large enough to represent the diversity within that group. For example, as explained in the *Harvard College Admissions Program* attached as an appendix to Justice Powell's opinion in *Bakke*:

[Ten] or 20 black students could not begin to bring to their classmates and to each other the variety of points of view, backgrounds and experiences of blacks in the United States. * * * Consequently, when making its decisions, the Committee on Admissions is aware that there is some relationship between numbers and achieving

the benefits to be derived from a diverse student body * * *.

438 U.S. at 323 (appendix to opinion of Powell, J.).

Available pedagogical literature strongly supports the following: Tokenism is the enemy of diversity. Members of groups previously excluded from access to legal education [for example], when enrolled in small numbers, often experience feelings of alienation and isolation that not only limit the individual student's ability to achieve his or her full potential, but also silence the very voices that are critical to building a diverse and intellectually stimulating law school. Enrolling a *critical mass* of students from traditionally underrepresented backgrounds provides students with meaningful access to the curriculum and promotes robust exchange of ideas among students of different backgrounds, thereby providing all students with the educational benefits of a diverse student body.

Rachel F. Moran et al., *Statement of Faculty Policy Governing Admission to Boalt Hall and Report of the Admissions Policy Task Force 5* (Aug. 31, 1993) (emphasis added). These findings illustrate how a court, informed by testimony of education experts, can assess whether a diversity-based affirmative action program is narrowly tailored.

Diversity-based programs can also be assessed based on their "flexibility and duration * * * including the availability of waiver provisions." *Paradise*, 480 U.S. at 171. A flexible program would contain aspirational goals, not quotas, use race as a "plus" among other factors, and maintain a general pool of applicants, rather than a separate "track" for particular racial groups. With respect to duration, given that the goal of the diversity-based programs is educational rather than remedial, it would not make sense to require them to end when some remedial goal had been achieved; rather, the

initiative would continue until diversity occurred “naturally,” *i.e.*, without institutional attention to the racial, ethnic or other diversity served. One way for a court to ensure narrow tailoring along this temporal dimension would be to require the institution periodically to re-evaluate the need for the program.

Finally, the narrow tailoring of a diversity-based affirmative action program should be judged based on its impact on “rights of third parties.” *Id.* This determination is no different here than in the context of remedial affirmative action and reflects the importance of employing race or ethnicity as a “plus” factor, to ensure legitimate competition among candidates of all races. *See Bakke*, 438 U.S. at 318 (opinion of Powell, J.).

There are thus available limiting principles according to which diversity-based programs can be narrowly tailored to achieve the compelling educational benefits that flow from diversity. Such programs can therefore be crafted to survive strict scrutiny under the Equal Protection Clause.

3. Because diversity-based affirmative action programs are constitutionally permissible, they are also permissible under Title VII.

The court of appeals dismissed the Board’s arguments that its plan furthered a compelling interest, and appeared to conclude that the constitutionality of the Board’s decision was irrelevant. (Pet. App. at 43a) (“we have not found anything in the Board’s arguments to convince us that this case requires examination beyond statutory interpretation”). The court’s holding that Title VII bars *all* non-remedial affirmative action implies that even programs that met constitutional standards would violate Title VII. That is incorrect.

Title VII’s constraint on affirmative action was “not intended to extend as far as that of the Constitution.” *Johnson v. Transportation Agency of Santa Clara County*, 480 U.S. 616, 628 n.6 (1987). The Court has noted the “narrowness of [its] inquiry” in the Title VII context, where

an employer's affirmative action plan involved no state action and thus implicated no constitutional concern. *Weber*, 443 U.S. at 200. Because "Title VII * * * was not intended to incorporate and particularize the commands of the Fifth and Fourteenth Amendments," *id.* at 206 n.6, *quoted in Johnson*, 480 U.S. at 627 n.6, it is difficult to see how it could be interpreted as going even further than the Constitution in its prohibitive effect. This is particularly so in the context of affirmative action.

There is "no indication that Congress intended [in enacting Title VII] to bar the voluntary use of racial preferences to assist minorities to surmount the obstacles imposed by the remnants of past discrimination." *Bakke*, 438 U.S. at 340 n.17 (Brennan, J., joined by White, Marshall and Blackmun, JJ., concurring in the judgment in part and dissenting in part). Moreover, Title VII should not be construed as prohibiting what the Constitution would permit: "Even assuming that Title VII prohibits employers from deliberately maintaining a particular racial composition in their work force as an end in itself, this does not imply * * * that Congress intended to bar the use of racial preferences as a tool for achieving the objective of remedying past discrimination *or other compelling ends*." *Id.* (emphasis added). At the very most, Title VII should be held to prohibit *as much as* the Constitution would, but no more. *See Johnson*, 480 U.S. at 649 (O'Connor, J., concurring); *id.* at 664-65 (Scalia, J., joined by Rehnquist and White, JJ., dissenting).

The legislative history confirms this. It reveals the depth of congressional concern that the statute not authorize undue federal government interference in private decisions, especially those designed to eradicate discrimination. For instance, members of Congress demanded that "management prerogatives, and union freedoms * * * be left undisturbed to the greatest extent possible." H.R. Rep. No. 914, 88th Cong., 1st Sess., pt.2 at 29 (1963), *quoted in Weber*, 443 U.S. at 206. Section 703(j) of the Act was proposed to prevent "undue 'Federal Government interference with private businesses because of some Federal employee's ideas about racial

balance or racial imbalance.” *Weber*, 443 U.S. at 206 (quoting 110 Cong. Rec. 14314 (1964) (remarks of Sen. Miller)). The statute therefore preserved a sphere in which private employers could undertake “voluntary affirmative efforts to correct racial imbalances.” *Id.* These concerns about federal governmental interference in private employment decisions counsel strongly against an expansive reading of Title VII in the education context.

Further, the Court has held already that Title VI does not bar affirmative action that satisfies constitutional standards. *See infra* p. 26 & n.5. Title VII should not be interpreted differently in this respect than Title VI, because “[t]here is no more indication in the legislative history of Title VII than in that of Title VI that Congress desired to prohibit such affirmative action to the extent that it is permitted by the Constitution.” *Bakke*, 438 U.S. at 340 n.17 (Brennan, J., joined by White, Marshall and Blackmun, JJ., concurring in the judgment in part and dissenting in part).

For these reasons, the court of appeals erred in concluding that the compelling interests served by faculty diversity were irrelevant to its Title VII analysis. If education institutions can demonstrate that a narrowly tailored diversity-based affirmative action program furthers a compelling interest, such a program should be held permissible under Title VII.

B. Such Plans Are Also Permissible Because They Advance the Goals of Title VII.

As the Court has recognized, an affirmative action program may also be permitted under Title VII if it advances the goals of the statute and does not “unnecessarily trammel” interests of non-minorities. The court of appeals erred in deciding that no program designed for any non-remedial purpose could ever sufficiently advance the purposes of the statute. That decision certainly cannot be supported by the record in this case. Further, as demonstrated by the findings reported above, diversity-based affirmative action plans can directly advance the core goal of Title VII by combating the intolerance that Title VII was designed to eradicate.

The legislative history of the 1972 amendments to Title VII demonstrates that the statute was intended not only to remedy past discrimination but also "to ameliorate the conditions which have led to the persistence of these practices." S. Rep. No. 415, 92nd Cong., 1st Sess., at 4 (1971). Congress specifically intended to approve, not ban, affirmative action that breaks down "existing misconceptions and stereotypical categorizations which in turn would lead to future patterns of discrimination." *Id.* at 12.

That purpose is especially evident in the legislative history of Title VII's application in the education field. For example, there was concern that the credibility of the government's promise to prohibit discrimination would be undermined by underrepresentation of minorities, particularly in education, law enforcement, and the administration of justice, because "these governmental activities * * * are most visible to the minority communities." H.R. Rep. No. 238, 92nd Cong., 1st Sess., at 17 (1971). *See also* S. Rep. No. 415, 92nd Cong., 1st Sess., at 10 (1971). Congress was especially concerned with the role of education in curbing the prejudiced attitudes that lead to discrimination:

It is difficult to imagine a more sensitive area than educational institutions, where the youth of the Nation are exposed to a multitude of ideas and impressions that will strongly influence their future development.

Id. at 12.

Pursuit of faculty diversity precisely advances the congressional goal of eliminating root causes of discrimination. First, a diverse faculty advances tolerance and lessens prejudice among students. And racial diversity uniquely performs this function in a way other pedagogical techniques cannot. *See supra* p. 17. Further, a diverse faculty facilitates recruitment and retention of a diverse student body and provides a support network for minority students. It thus makes possible the cross-racial student interactions that have additional positive effects on racial

attitudes for all students. *See supra* pp. 6-7. For all these reasons, not only is appropriate diversity-based affirmative action in faculty employment decisions permitted under Title VII, but the statute's core purposes are served by it. Accordingly, provided a diversity-based program does not unnecessarily trammel interests of non-minorities, it should be held consistent with Title VII. *Weber*, 443 U.S. at 208.

IV. THIS COURT SHOULD REVERSE THE COURT OF APPEALS' BROAD DENUNCIATION OF ALL DIVERSITY-BASED AFFIRMATIVE ACTION PROGRAMS.

As *amici* have shown, diversity-based affirmative action programs can be structured to accomplish, and narrowly tailored to meet, compelling interests. As they have also shown, such programs can be designed to meet the goals of Title VII. For these reasons, the court of appeals' broad rejection of all such programs should not stand. Instead, for several reasons, *amici* urge the Court to decide only the validity of the program presented by this case.

First, the record does not support creation of a *per se* rule here at all, even a rule holding that faculty diversity may never be a valid factor in a lay-off decision under Title VII. As *amici* have demonstrated, there may in fact be circumstances in which such action would be permissible. Under the established standards, the Court considers whether an affirmative action plan "unnecessarily trammel[s] the interests of the white employees." *Weber*, 443 U.S. at 208; *Johnson*, 480 U.S. at 630. The court of appeals decided that because the Board's decision resulted in Respondent being laid off, the decision necessarily violated Title VII for that reason alone. (Pet. App. at 46a.) However, there is no record here to support a determination that consideration of race as one factor in a lay-off decision would *always* result in a burden on a white employee sufficient to violate Title VII. For example, this case does not present the question whether a decision grounded in a more clearly defined policy would have been permitted. The majority of the court of appeals placed great weight on what it characterized as the policy's

“utter lack of definition and structure” in deciding that the Board’s decision unnecessarily trammied Respondent’s interests. (Pet. App. at 44a.) This record simply does not support a conclusion one way or the other as to whether the law would be offended if a board of education or education institution systematically based its decisions on a clearly defined policy.

Further, the Court should not decide that diversity can never be a permissible factor in a *non-lay-off* situation. If the Court found, for example, that the Board’s decision unnecessarily burdened Respondent’s interest in retaining her job, then the Court might on that basis find a Title VII violation. The related but different question whether a diversity-based faculty hiring or promotion decision would violate Title VII was not presented to the court of appeals in this case and, again, there is no record on which the court of appeals should have decided it here. *See Wygant*, 476 U.S. at 282 (“hiring goals * * * do not impose the same kind of injury that layoffs impose”).

A fortiori the Court should not decide whether diversity is a permissible goal for an affirmative action program involving students, under Title VI of the Civil Rights Act of 1964 or Title IX of the Education Amendments of 1972. Indeed, even if the Court agreed with the broad holding below, this Court’s decision should be limited to the context of employment decisions under Title VII. That is because the Court’s precedents strongly support the permissibility of non-remedial affirmative action in decisions affecting students, under the Constitution, Title VI, and Title IX. Further, the factual context of college student-related decisions is so different from the facts presented in this case that it would be imprudent for the Court to settle “an issue of great national importance,” *Texas v. Hopwood*, 116 S. Ct. 2581 (1996) (mem.) (denying cert.) (opinion of Ginsburg, J., joined by Souter, J.), without benefit of an adequate record.⁵

⁵ As noted, Justice Powell’s controlling opinion for the Court in *Bakke* declared that a university has a compelling interest in treating race as one of many factors relevant to admissions to

Similarly, the Court repeatedly has interpreted Title IX under the same principles as Title VI. See, e.g., *Cannon v. University of Chicago*, 441 U.S. 677, 694-95 (1979); *Grove City College v. Bell*, 465 U.S. 555, 566 (1984); *Franklin v. Gwinnett County Pub. Schs.*, 503 U.S. 60, 70-71 (1992). "Title IX was patterned after Title VI * * *." *Grove City*, 465 U.S. at 566; *Cannon*, 441 U.S. at 694. In *Cannon*, the Court noted that "the drafters of Title IX explicitly assumed that it would be interpreted and applied as Title VI had been during the preceding eight years." 441 U.S. at 696. The Court has not addressed specifically the valid goals for affirmative action efforts based on gender under Title IX. Nevertheless, the commonality between Title VI and Title IX indicates that, at a minimum, Title IX does not proscribe affirmative action permissible under Title VI and the Constitution. Since student body diversity is an appropriate purpose for affirmative action under Title VI and the Constitution, that goal would also support affirmative action under Title IX.⁶

secure for all students the educational benefits of student diversity. 438 U.S. at 314 (opinion of Powell, J.); see also *id.* at 328 (Brennan, J., joined by White, Marshall and Blackmun, JJ., concurring in the judgment in part and dissenting in part). In *Bakke* and subsequently, the Court has made clear that "the reach of Title VI's protection extends no further than the Fourteenth Amendment." *United States v. Fordice*, 505 U.S. 717, 732 n.7 (1992) (citing *Bakke*, 438 U.S. at 287 (opinion of Powell, J.); *id.* at 328 (Brennan, J., joined by White, Marshall, and Blackmun, JJ., concurring in the judgment in part and dissenting in part); *Guardians Ass'n v. Civil Serv. Comm'n of New York*, 463 U.S. 582, 610-11 (1983) (Powell, J., concurring in the judgment); *id.* at 612-13 (O'Connor, J., concurring in the judgment); *id.* at 639-43 (Stevens, J., dissenting)). Therefore, in *Bakke* the Court implicitly held that student diversity is also a permissible goal under Title VI. 438 U.S. at 287.

⁶ The United States government, through regulations implementing Title VI, supports voluntary efforts to create racial diversity in educational programs, even in the absence of a finding of prior discrimination. See 34 C.F.R. § 100.3 (b)(6)(ii) (1996); 34 C.F.R. § 100.5(i) (1996) (regulations issued May 9, 1980); 20

There are yet more reasons why the Court should reject the broad holding of the court of appeals and limit its decision to the facts of this case. The judicial and congressional endorsement of diversity as a legitimate goal in education has given rise to deeply settled expectations, on the part of institutions and students, that counsel against their reversal. *See Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 854, 856 (1992) (opinion of O'Connor, Kennedy, and Souter, JJ.). After the Civil Rights Act of 1964, universities and colleges throughout the nation initiated and enhanced efforts to increase minority student representation. In 1978, a majority of the Court agreed in *Bakke* that neither the Equal Protection Clause nor Title VI prohibits a university from establishing "affirmative action programs that take race into account." 438 U.S. at 325 (Brennan, J., joined by White, Marshall, and Blackmun, JJ., concurring in the judgment in part and dissenting in part); *id.* at 320 (opinion of Powell, J.). Following that endorsement, affirmative action became an even more widely accepted and deeply integrated component of many college and university admissions strategies.

These initiatives contributed to a substantial increase in minority attendance. In 1965, only 4.9% of college students ages 18-24 were African-American, the same proportion as in 1955. "Only in the wake of affirmative action measures in the late 1960s and early 1970s did the percentage of black college students begin to climb steadily (in 1970, 7.8 percent of college students were black; in 1980, 9.1 percent; and in 1990, 11.3 percent)." *Affirmative Action Review: Report to the President* 12 (July 19, 1995). Despite this progress, blacks and Hispanic-Americans are still substantially less likely to attend college than whites. American Council on Educ., *Making the Case for Affirmative Action in Higher Education: What You Can Do to Safeguard Affirmative Action on Campus and in Your Community* 15 (June 1996). That disparity in turn has led to disparities in graduate

U.S.C. § 7202 (West Supp. 1997); 34 C.F.R. § 280.1 (1996); 20 U.S.C. § 7205 (West Supp. 1997); 34 C.F.R. § 280.1 (1996).

enrollment and has impeded the institutions' efforts to remedy persistent under-representation of minorities in the professoriate. See Deborah J. Carter & Reginald Wilson, *Fourteenth Annual Status Report on Minorities in Higher Education* 40 (Am. Council on Educ. 1996).

For the Court now to reverse nearly twenty years of post-*Bakke* affirmative action in college admissions would have a devastating impact on minority representation on campuses, particularly but by no means exclusively at our leading institutions.⁷

[I]f admissions decisions at [the nation's most prestigious universities] were made on the basis of grade point averages and SAT scores, and without regard to race, perhaps 1 percent or 2 percent of all students accepted for admission to these schools would be black. Without the highly targeted push of affirmative action it appears that two thirds of the approximately 3,000 African-American freshmen now enrolled each year at the nation's 25 highest-ranked universities would be denied admission to these schools.

Robert Bruce Slater, *Why Socioeconomic Affirmative Action in College Admissions Works Against African Americans*, J. of Blacks in Higher Ed. 57, 57 (Summer 1995) (citing Theodore Cross, *Suppose There Was No Affirmative Action at the Most Prestigious Colleges and Graduate Schools*, J. of Blacks in Higher Ed. 44 (Spring 1994); Theodore Cross,

⁷ The experience of the University of Texas Law School after *Hopwood v. Texas*, 78 F.3d 932 (5th Cir.), *cert denied*, 116 S. Ct. 2581 (1996), and the University of California after passage of Proposition 209 is arresting. Black applications to the University of Texas Law School dropped 42% in 1997. In California, black applications fell 8.2%, while overall applications increased. Peter Applebome, *Universities Report Less Minority Interest After Action to Ban Preferences*, N.Y. Times, Mar. 19, 1997, at B12. Three black students enrolled in the 1997-98 entering class at the University of Texas Law School, compared to 31 in 1996-97. Peter Applebome, *Affirmative Action Ban Changes a Law School*, N.Y. Times, July 2, 1997, at A14.

What If There Was No Affirmative Action in College Admissions? A Further Refinement of Our Earlier Conclusions, J. of Blacks in Higher Ed. 52 (Autumn 1994)).

For all these reasons, the Court should limit its ruling in this case to the particular Title VII lay-off situation presented, and should make clear that it is not forbidding all other uses of diversity in other contexts or under other statutes.

CONCLUSION

The Court should reverse the judgment below and hold that Title VII permits use of race as a factor in narrowly tailored faculty employment decisions to promote diversity. If the Court affirms the judgment, it should do so on the basis of the particulars of the record before it and should reverse the court of appeals holding that Title VII bans all non-remedial affirmative action. In any event, the Court should leave undisturbed settled law recognizing the legitimacy of pursuing diversity through narrowly tailored means in decisions involving students.

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15, 18, 23, 33



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TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

A. Approval of Outreach Task Force Recommendations

The Committee recommends that the report "New Directions for Outreach: Report of the University of California Outreach Task Force" be accepted and that the recommendations contained in the report be adopted.

[The report was mailed to all Regents in advance of the meeting.]

B. Approval of Joint Powers Agreement, Institute for Desert Agriculture County Service Area, Riverside Campus

The Committee recommends, subject to the concurrence of the Committee on Finance, that The Regents authorize the execution by the Secretary of a Joint Powers Agreement between The Regents of the University of California and the Institute for Desert Agriculture County Service Area, the purpose of which is to delineate the respective responsibilities of the Institute for Desert Agriculture County Service Area and the University pertaining to the funding and implementation of the Institute for Desert Agriculture.

[[List of Approved Action Reports](#)] [[Home](#)]

Send questions, comments, or suggestions to Anne.Shaw@ucop.edu.

Outreach Task Force

University of California

Draft Task Force Report

(June 23 Draft Incorporating 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, shows a continuing pattern of differing outcomes for racial and ethnic groups in California's school system, with groups least represented in higher education remaining most concentrated in the lowest-ranked 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 factors outside of the schools also influence these outcomes, it is clear that the role of the schools is critical and that school improvement provides the most effective single means by which the overall educational environment experienced by disadvantaged students can be improved. These findings suggest that University outreach programs must develop a comprehensive, well integrated plan coordinated with schools if these programs are to continue to be a force for diversity within a post-SP-1 environment. Elements of this plan should address school culture broadly, including instruction, curriculum, advising, student engagement in learning, and parent involvement. Early intervention also was identified as an important element to be emphasized 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.* Members of the Task Force, in particular members representing the private sector, stressed the importance of diversity at the University, because of its potential for promoting economic development in the State through a well-educated management and work force.

B. Three-Point Strategy for UC Outreach

In response to these findings, the Task Force proposes a three-point outreach strategy that includes short-term, intermediate-term and long-term efforts 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. This effort also should include a partnership in the Central Valley. 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 circumstances.

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 have a record of success, as measured by the number of program participants who subsequently become

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 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 improve planning and preparation for college. Using a variety of media -- publications, videos, computer technology -- the University should provide materials to alert students and their families, especially during the critical early stages of planning for college, to the course work, achievement levels, and type of individual engagement required for sound preparation. This media program also 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 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

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 an enhanced commitment to recruit, develop, and retain this key group of educators, as well as to support and carry out research and development efforts in teacher education.

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 achieve 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 diverse student body stems from the gap between the high standard of academic preparation required for admission to the University of California, on the one hand, and the very different rates at which eligibility is achieved among high school graduates from different social backgrounds, on the other. Figure 1, for example, shows UC eligibility rates across different racial and ethnic categories.⁽¹¹⁾

Just as there are substantial differences in UC-eligibility rates across racial and ethnic groups, so too there are significant disparities in eligibility rates among high school graduates from different income groups and from different geographic regions. Figure 2 illustrates differences in UC eligibility rates across the major regions of California.

Figure 1⁽¹²⁾

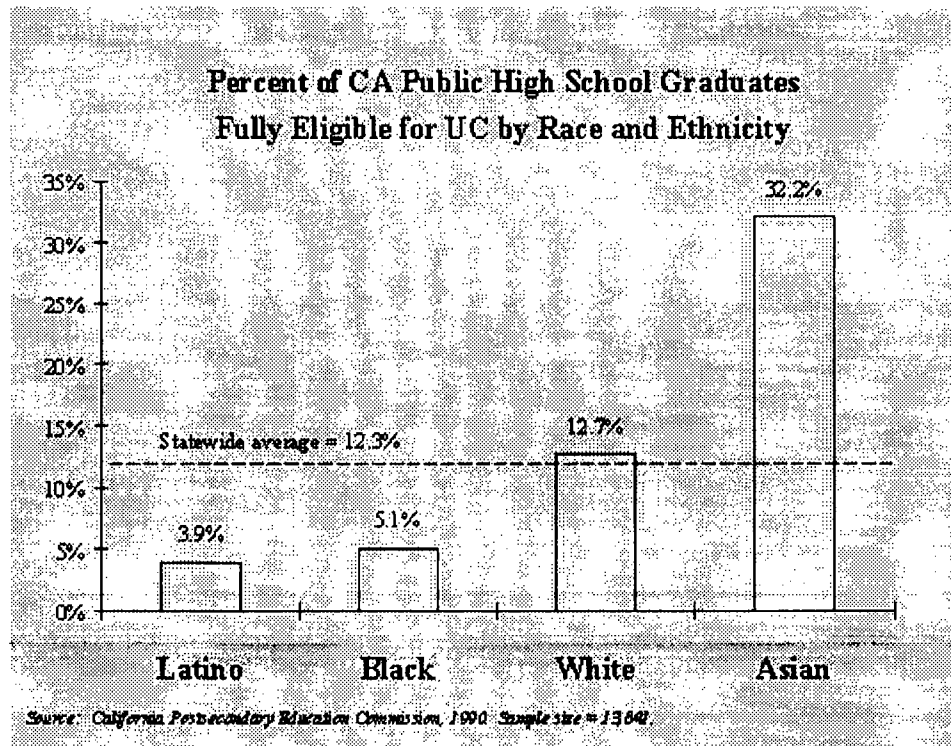
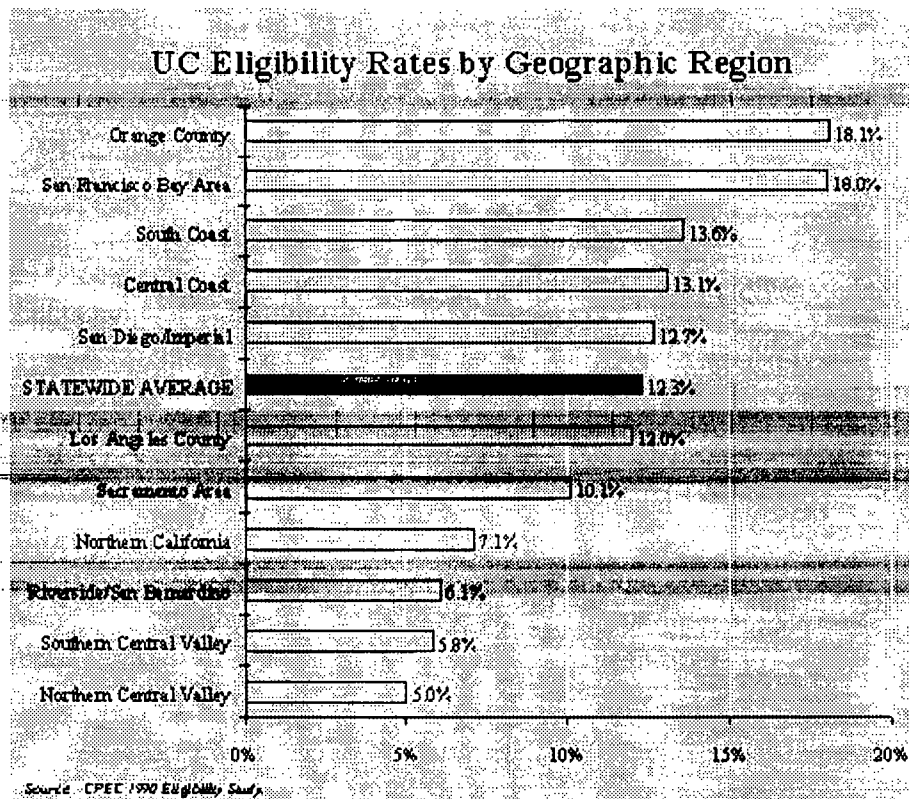


Figure 2



These disparate eligibility rates illustrate the magnitude of differences in academic preparation among different groups and the limited opportunities for students in some groups to enroll at UC; University outreach programs were developed as a means to address this fundamental inequity. During the 1970s and '80s, a variety of new programs were established to provide services directly to K-12 students, including academic enrichment and support, counseling, parental involvement, and motivational activities. These efforts included Universitywide programs such as EAOP and MESA; campus-specific programs such as Break the Cycle at UC Berkeley; and non-University programs such as Advancement Via Individual Determination (AVID).⁽¹³⁾ Outreach services focused especially on students from groups with below-average UC eligibility and enrollment rates & shy; particularly minorities with historically low college-going rates, but also including low-income students, those from rural and other underserved geographic regions, and women in certain academic fields such as math and engineering & shy; in order to "level the playing field" and improve college preparation. While many of these programs initially focused on students at the high school level, later efforts were increasingly aimed at the junior high/middle school level and even earlier in the educational "pipeline," recognizing the vital importance of early academic preparation in setting students on the path to college.

B. Outreach to Community Colleges

In addition to K-12 outreach, University outreach programs were also established during the 1970s and '80s to serve students at California's community colleges. Under the California Master Plan for Higher Education (1960), the University has a responsibility to provide an additional opportunity for students who may not be initially eligible for UC out of high school to establish their eligibility through specified coursework at a community college and subsequently transfer to the University.⁽¹⁴⁾ Outreach at the transfer level is especially important because of the diversity of community college enrollment. Nearly 1.12 million students attend a California community college and over 300,000 students, or approximately 30 percent of the total, are African American, American Indian, or Chicano/Latino.⁽¹⁵⁾ The transfer function thus has the potential to become a critical element in California's commitment to educational equity for all segments of the population.

Outreach programs for community college students, such as Puente and MESA, have helped to increase diversity among transfer students to UC.⁽¹⁶⁾ Still, the growth of a diverse transfer student population at the University has been modest to date, especially among African American, American Indian and Chicano transfer students, indicating a need to expand current efforts and/or develop new initiatives.

C. Graduate/Professional School Outreach

A third area of outreach that emerged during the 1970's and '80s was graduate and professional school outreach. The focus of these activities has been on enhancing both the quality and diversity of the University's graduate and professional programs. A primary concern underlying graduate and professional outreach is the narrowing of the academic pipeline, especially for students from disadvantaged groups, as students complete their baccalaureate degrees and advance to graduate and professional school. Though relatively small in scope, graduate and professional outreach programs have assumed increasing significance over the past two decades given their role in helping diversify the pool from which the next generation of UC faculty will be drawn.

equity for all segments of the population.

II. THE HEIGHTENED IMPORTANCE OF OUTREACH:

IMPACT OF REGENTS' RESOLUTION SP-1

In July 1995, the UC Regents approved SP-1, eliminating consideration of race, ethnicity and gender in University admissions. Though SP-1 dealt primarily with UC admissions, its implications for University outreach were equally significant.

First, by eliminating consideration of race, ethnicity and gender as "plus factors" in admissions, SP-1 greatly magnified the role of outreach as the primary means for achieving a demographically diverse student body. Without use of admissions procedures, the University must develop its outreach programs to serve as its central and primary tool for achieving racial, ethnic and gender diversity within its student body. Recognizing this need, The Regents established the Outreach Task Force *"... to develop proposals for new directions and increased funding for the Board of Regents to increase the eligibility rate of those disadvantaged economically or in terms of their social environment."*⁽¹⁷⁾

As this language suggests, a second noteworthy feature of SP-1 was its emphasis on economic and other forms of "disadvantage." ~~Guided by this emphasis, the concept of disadvantage has figured prominently in~~ the Task Force's deliberations, and as the term is used in this report, "disadvantage" is defined broadly to include not only economic forms of disadvantage such as low-family income, but other forms of educational and social disadvantage as well, including but not limited to: attending a school with a limited college preparatory curriculum; being the first generation in one's family to attend college; residence in a community with low college-going rates; enrollment in a school with below-average SAT/ACT exam scores; and/or belonging to a group with below-average UC eligibility and enrollment rates. None of these circumstances in and of themselves is insurmountable, as numerous individual cases illustrate, but all are frequently associated with low probability of college attendance.

In the course of Task Force discussions, considerable attention was given to the questions of student eligibility for outreach services. The University's outreach programs should remain open to all but, to the extent possible under the law, should emphasize increases in ethnic minority participation in postsecondary education.

Finally, a third important feature of SP-1 is the last section of the resolution:

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.⁽¹⁸⁾

~~The key element of this section is the distinction it draws between ends and means. It distinguishes~~ between the general goal of diversity, on the one hand, and the specific means used to achieve that goal, on the other. While rejecting race and gender preferences as a means for achieving a diverse student body, SP-1 nevertheless upholds the general principle that the University should strive to be inclusive and to reflect the diversity of the State it serves. The challenge SP-1 poses for University outreach, in short, is how to achieve the broader goal of diversity even as the means for realizing that goal have been changed.

As a first step in meeting that challenge, the University must also make clear its continuing commitment to diversity, reassuring students and communities concerned by recent changes in admission and other policies. Because practices used to promote diversity in the past are now changing, some have concluded that UC commitment to diversity is waning. Such is not the case. The University must make clear that practices promoting diversity are a means to an end and that changes now underway represent an evolution whose aim is unfaltering -- to provide broad access for all groups to UC campuses and programs.

III. FOCUS ON EDUCATIONAL DISADVANTAGE: AN APPROACH

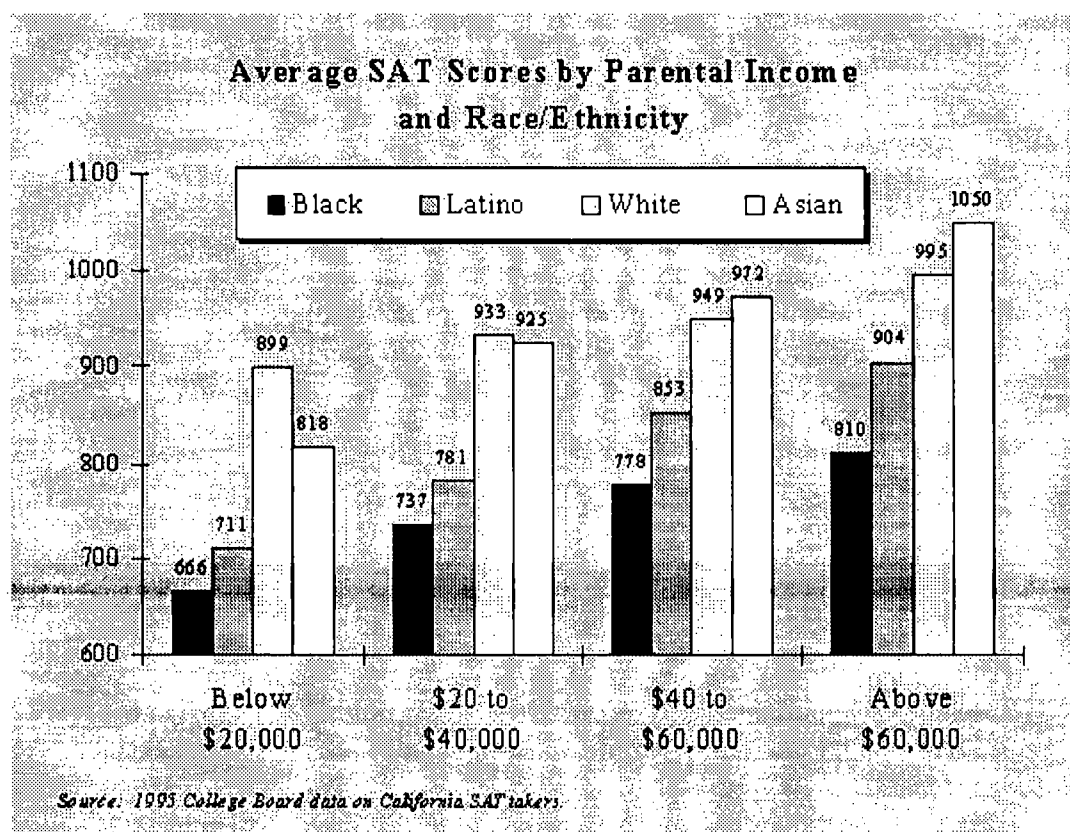
TO ACHIEVING DIVERSITY THROUGH OUTREACH

It is sometimes assumed that racial and ethnic diversity can be achieved by focusing outreach activities strictly on prospective students who are economically disadvantaged. Based on the extensive body of data it has reviewed, however, the Task Force is persuaded that racial and ethnic disparities in college preparation and eligibility are not simply a reflection of economic disadvantage or low family income alone, but also reflect educational disadvantage. Thus, the Task Force believes that UC outreach in the future should focus primarily on helping to ameliorate this barrier to academic achievement.

Available evidence reveals the impact of educational disadvantage when income is held constant. Figure 3 below summarizes test results for all California high school graduates who took the SAT Test in 1995, with the test scores broken down simultaneously by race and income. (Although controversial, the SAT is the most widely available yardstick of students' preparation for college; SAT data are presented here not to draw distinctions between groups, but to suggest the relative educational advantages and disadvantages typically experienced by students from different social backgrounds.⁽¹⁹⁾)

As the data indicate, there are substantial differences in college preparation across different racial and ethnic groups -- even for students at the same income levels. Within every income category from lowest to highest, African American and Latino students average substantially lower on the SAT than Asian Americans and Whites. In fact, the differences are so large that the average SAT score for African Americans in the highest income category is actually below that of Whites and Asian Americans from families with the poorest incomes. (When similar studies are carried out on the pool of UC applicants only, the same result emerged.)

Figure 3



But if income or economic factors do not fully account for these differences, what does? Clearly, many factors influence student achievement. Students' lives outside of school play a very significant role. Students who excel usually value achievement and devote large amounts of time to mastery of subject matter at a high level. To strive for success, students must understand the value of education, believe in themselves as well as their ability to gain admission to a selective institution, and have a realistic sense of what will be required of them to attain that goal.

Family support is much needed. Families must emphasize the value of education, involve themselves in their children's educational progress through daily supervision of assignments, help in course selection, make school visits, and engage in frequent conversations with teachers and other school personnel.

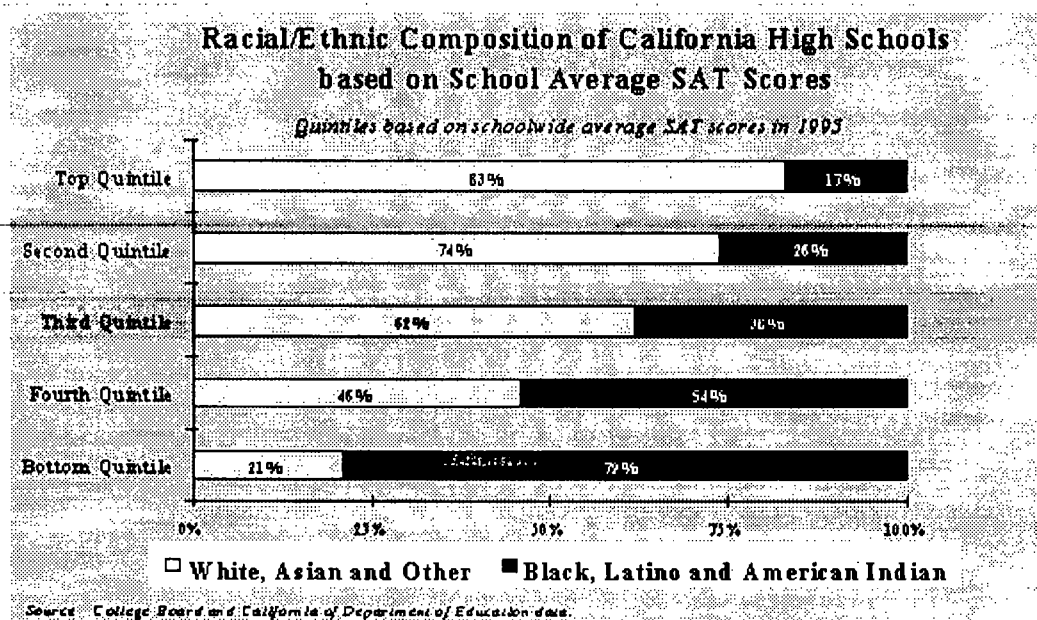
In addition, the role of peer culture in student success is important. Academic achievement sometimes is viewed as a liability rather than an asset among adolescents. All of these factors must be taken into account in understanding UC eligibility and enrollment patterns.

At the same time, however, differences between schools -- including every level from pre-kindergarten to high school -- can significantly contribute to or detract from students' academic aspirations and achievement. Broad structural patterns are apparent in the data. Most prominent are school-by-school differences in academic preparation. Data collected by the Task Force show a continuing pattern of racial and ethnic differences within California's school system today: *Those groups who are least represented in higher education remain most concentrated in the bottom tier of K-12 schools, as measured by a variety of academic performance indicators.*

To illustrate, Figure 4 shows the proportion of those with lower-than-average UC eligibility and enrollment rates -- African American, American Indian and Latino students -- within each quintile of

public high schools in California. The quintiles are based on school-wide average SAT scores in 1995, and each quintile represents approximately 150 schools. As Figure 4 demonstrates, the proportion of African American, American Indian and Latino enrollments increases sharply at each level as one moves from the top to the bottom tier of schools. These minority groups account for just 17% of enrollments among schools in the top quintile, but represent 79% -- almost 4 out of every 5 enrollments ­ within the bottom quintile of California public high schools.

Figure 4



From a structural point of view, it is this continuing concentration of minority students within the most disadvantaged learning environments that appears to contribute to a considerable extent, to group differences in college preparation and eligibility.⁽²⁰⁾ The gap between the top and bottom schools -- and the very different learning environments they provide -- is illustrated graphically in Figure 5. Taking the top and bottom quintiles from Figure 4, Figure 5 compares these two groups of schools along a variety of social and educational indicators.

As Figure 5 shows, the profiles of the top and bottom schools differ sharply on almost every indicator. Geographically, schools in the top quintile tend to be located in suburban areas, while those in the bottom quintile are most often found either in urban or rural areas. Socially, a much higher proportion of students in the bottom quintile of schools receive Aid to Families with Dependent Children and have limited English proficiency than is the case among students in the top quintile of schools. Especially noteworthy is the difference between the two groups of schools in the proportion of fathers who possess a high school diploma or greater ­ a factor known to correlate strongly with college attendance for the next generation. Within the top quintile of schools, 90% of students' fathers possess at least a high school degree, compared to 36% in the bottom quintile of schools. (Data on father's education are from the California Department of Education's database, which unfortunately does not provide data on mother's education.)

Most significant for the Task Force's purposes, all of the academic performance indicators in Figure 5 reveal substantial differences among the two groups of schools on measures such as 4-year completion

rates, enrollment in "a-f" courses required for University admission, and qualification for Advanced Placement credits at the college level. The differences on standardized tests are particularly dramatic: only 33% of seniors within the bottom quintile of schools take the SAT, compared to 56% in the top quintile. And among those who do take the SAT, the average (combined) score in the bottom quintile is just 715, compared to 1007 in the top high schools. There can be little doubt about the differences in the learning environments the two groups of schools provide, and these differences, in turn, are reflected in college-going rates: 15% of graduates from the top quintile of schools go on to attend UC, compared to only 4% from the bottom quintile. Given the heavy concentration of African American, American Indian, and Latino children in the bottom tier of our public schools, their comparatively low UC eligibility and enrollment rates should come as little surprise.

What these findings suggest, in short, is that learning environments experienced by the students who are in these schools do not set them on a path to postsecondary education. Students' lives outside the school also play a major role in these patterns and cannot be ignored in efforts to improve educational outcomes. However, it is through schools (and with schools as the instrument and the path) that UC can have the most powerful influence in equalizing educational opportunities. University outreach efforts must focus primarily on *educational disadvantage*, not merely low income or economic disadvantage, if these programs are to continue to serve the goal of racial and ethnic diversity within a post-SP-1 environment. *By focusing on areas of greatest educational disadvantage, University outreach can contribute most to the broader goal of diversity at the same time.*

Placement credits at the college level. The differences on standardized tests are particularly dramatic: only 33% of seniors within the bottom quintile of schools take the SAT, compared to 56% in the top quintile. And among those who do take the SAT, the average (combined) score in the bottom quintile is just 715, compared to 1007 in the top high schools. There can be little doubt about the differences in the learning environments the two groups of schools provide, and these differences, in turn, are reflected in college-going rates: 15% of graduates from the top quintile of schools go on to attend UC, compared to only 4% from the bottom quintile. Given the heavy concentration of African American, American Indian, and Latino children in the bottom tier of our public schools, their comparatively low UC eligibility and enrollment rates should come as little surprise.

Figure 5

**Selected Characteristics of Top and Bottom Quintiles
of California Public High Schools**
Quintiles based on 1995 school-wide average SAT scores

	Top Quintile	Bottom Quintile
Number of schools	151	151
Percent urban	12%	54%
Percent suburban	69%	19%
Percent rural	19%	27%
Percent receiving Aid to Families with Dependent Children	5%	28%
Percent limited English proficiency	7%	31%
Percent father with high school diploma or higher ¹	90%	36%
4-year completion rate	91%	78%
"a-f" enrollment rate	61%	48%
Percent of seniors taking SAT	56%	33%
Average SAT (combined) score	1007	715
Percent scoring 900+ on SAT	43%	6%
Percent scoring 3 or more on Advanced Placement exams	27%	6%
Percent of graduates attending UC	15%	4%
Combined percent Latino, Black and American Indian	17%	79%

Source: Derived from College Board, California Department of Education, and UC application data

IV. TWO GOALS FOR UNIVERSITY OUTREACH

Based on its findings, the Outreach Task Force recommends the following two goals to reshape and expand University of California Outreach:

A. Contribute to the academic enrichment of UC campuses through a diverse student body.

A first priority is to reaffirm the importance of diversity as a core institutional value and as a continuing goal of University outreach programs. During its deliberations, the Task Force encountered the

perception among some minority students and educators that, following Regents' resolution SP-1, the University of California may no longer place as great a value on diversity as it once did. But diversity, including racial and ethnic diversity, remains a core institutional value for UC for two main reasons: first, because of its importance within the educational and academic environment, and second, because of the University's responsibility as a public, land grant institution to serve all of the population of the State of California.

The educational rationale for diversity was first articulated in 1852 by John Henry Newman, while Rector of Dublin's Catholic University. Newman urged bringing students from diverse backgrounds together because under such circumstances:

they are sure to learn from one another, even if there be no one to teach them; the conversation of all is a series of lectures to each, and they gain for themselves new ideas and views, fresh matter of thought, and distinct principles for judging and acting, day by day.⁽²²⁾

Appreciation for the role of diversity in the educational environment has grown over the past century for several reasons. Diversity provides students a "laboratory experience" in pluralism. When students from a wide variety of locations, socioeconomic strata, ethnicities, experiences, and beliefs come together in a learning environment, the quality and texture of debate gains substantially in scope, energy, and strength. The "give and take" among students whose differing views grow out of varied experiences creates a fundamentally richer learning environment -- more engaging, more demanding, and more complex & shy; than when students are merely "taught" about human differences.

In addition, diversity is vital to the education of citizens in a democratic society. It provides for development of leadership from the many different strands that make up society, cultivating appreciation and respect among students for the variety of assumptions, experiences, expectations, and talents characteristic of the people of this state.

Beyond the educational rationale for diversity, moreover, there is also a compelling institutional rationale that stems from the University of California's status as a public, land grant institution. UC was established as a public trust, and its original charter, as set forth in the Organic Act of 1868, requires the University "to so apportion the representation of students that all portions of the State shall enjoy equal privilege therein."⁽²³⁾ Implicit in this charter was the recognition that the University must serve all of the population of California in order to receive public funding and support.

As the University looks now to the 21st Century, this implicit social contract will once again be tested as it has over the past century. Projections indicate that that "Tidal Wave II" & shy; the demographic bulge of additional new students now entering the K-12 "pipeline" who will reach college age over the next 10 to 15 years & shy; will impact California higher education soon after the turn of the new century. Compared with the previous "baby boom" following World War II, however, "Tidal Wave II" will be far more diverse from a demographic standpoint. Projections indicate that growth in the number of new high school graduates will be greatest precisely among those minority groups whose current UC-eligibility and enrollment rates are lowest. Viewed from this perspective, the University's continuing commitment to diversity & shy; and the effectiveness of UC outreach programs in realizing this commitment & shy; will be an increasingly important factor affecting the level of public funding and support for the University in the future.

Beyond this, it is important for the economic and social well-being of California that a diverse and highly

skilled workforce be available. California's economy cannot remain strong and competitive unless a broad cross section of its population is trained for management and leadership.

B. Improve opportunities for disadvantaged students in California to achieve eligibility and to enroll at UC campuses.

For the University to achieve its aim of enrolling a student body that meets high academic standards and encompasses the broad diversity of California, students from all segments of the state's population must be provided the resources needed for good academic preparation. Ideally, all students, regardless of where they live, and irrespective of race, gender, or family economic circumstance, should have the opportunity to develop their full educational potential.

For students to develop this potential and to gain the skills necessary to participate in the University's programs, young people need strong, well informed family involvement and support; excellent elementary and secondary school preparation; and personal initiative, drive, discipline, and motivation for college attendance. In fact, disadvantaged students have far less access than others to all these educational resources; they and their families have less access to information about higher education, their schools are less well equipped to serve them, and the students themselves often lack experiences that promote educational aspirations.

Moreover, helping disadvantaged students to become *minimally eligible* to enter the University will not allow them to enroll at or participate in the University's most selective campuses and programs. Within the University, different levels of competition prevail for admission to various academic programs and to various campuses. To participate in these academic arenas, students must make themselves *competitively eligible*; earning grades and completing coursework well beyond minimum admissions criteria. Given this, a significant commitment also will be required to provide the educational support that allows California's most talented students to develop their potential so that they can compete for admission to all of the University's programs, including those that are most demanding.

Providing disadvantaged students access to all the necessary tools to equip them not only for UC eligibility but for admission to the University's most selective programs and campuses, requires a fundamental reshaping of current patterns of educational opportunity. Such a task is daunting, and acting alone, the University cannot make a significant difference for any substantial part of California's K-12 population, nor is it charged with doing so. The University does, however, have a strong interest in, and capacity for, stimulating and contributing to improvement in the state's educational system. And the University can provide unparalleled educational expertise and considerable resources for such an effort. More importantly, it also can act as a catalyst for mobilizing groups and institutions in California with whom the University shares common concerns on this issue: parents, schools, postsecondary institutions, community groups, the business sector, and students themselves.

Thus the Task Force has concluded that, despite the challenge represented by this goal, the University must structure outreach programs that address the full breadth of forces and activities that contribute to student aspiration, motivation, and learning, and it must aim for full access for every student in California to excellent college preparatory programs. UC's outreach programs must be at once: 1) broader, reaching more students and influencing their preparation in multiple ways; and 2) deeper and more far reaching, setting higher academic aims for students' achievement levels to allow for choice in enrollment among UC campuses and programs.

V. ACHIEVING OUTREACH GOALS: A PROPOSED PLAN

In developing a plan to meet the outreach goals described above, the Task Force commissioned research and reviewed the extant literature to assess the strengths and weaknesses of the University's current outreach efforts.

A. Independent Evaluations of Current UC Outreach

Two research reports were especially influential: the California Postsecondary Education Commission's (CPEC's) *Progress Report on the Effectiveness of Collaborative Student Academic Development Programs (1996)* and a report commissioned by the Task Force and conducted by the Policy Analysis for California Education (PACE) titled, *Higher Education Outreach Programs: A Synthesis of Evaluations*.

CPEC conducted a comprehensive evaluation of nine existing intersegmental academic development programs whose common purpose was to increase the eligibility and college-going rates of students from groups that have evidenced consistently low rates in the past. CPEC's review included University efforts such as EAOP, MESA, and the Urban School Community Collaborative. CPEC concluded that these programs were effective in preparing students from groups with low eligibility and college-going rates for admission and success in higher education and noted that

... the proportion of students in these programs -- most of whom are from groups with documented low eligibility rates -- who enrolled in higher education was 21 percent higher than graduates statewide -- the majority of whom are from backgrounds and communities with a tradition of college attendance. (24)

PACE synthesized research on state and national outreach programs and was commissioned to provide Task Force members a broader, more in-depth review of outreach programs in California and across the country. (25) PACE noted that outreach programs

... can make a difference in the lives of young people and in the quality of curriculum and teaching in K-12 schools. Overall, the programs reviewed have increased the numbers of underrepresented, disadvantaged students going on to higher education. The professional development activities of various programs have also helped teachers and schools do a better job of educating all students. (26)

PACE concluded, however, that there is little systematic, longitudinal research on the effectiveness of either student-centered and school-centered outreach programs, concluding that

... current evaluation data do not enable us to conduct a definitive analysis [of University outreach programs]. Few program evaluations have been conducted with rigorous designs and data collection. No evaluations of the student-centered programs have systematically investigated the differential effects of one program component versus another... School-centered strategies and programs are even more challenging to evaluate... It is much more difficult to establish a causal link between school-change strategies and the longer-term goal of preparing greater numbers of disadvantaged students for college. (27)

Both the PACE and CPEC reports note the lack of data evaluating the substantive and long-term impact

of University outreach programs, and recommend strongly that such on-going evaluation be made a more integral part of all University academic development programs.

In addition to the lack of longitudinal data and control group data regarding program effectiveness, the University's outreach programs, as presently configured and taken as a whole, are not organized to address systematically the array of interlocking challenges that disadvantaged students and families face in preparing for college. Individual programs do not, for example, address underlying school, community, and environmental factors that often impede learning. In addition, current outreach programs have resources to enroll only a small fraction of the great number of students who could benefit from their services.

B. Elements for Future UC Outreach

In addition to reviewing the recommendations of the PACE and CPEC reports the Task Force relied upon analyses conducted by its five subcommittees, which focused on specific outreach issues and student constituencies.⁽²⁸⁾ From this review emerged three basic concerns: 1) the need for long-term research evaluating outreach and teaching outcomes; 2) insufficient outreach capacity; and 3) the lack of crucial educational resources. With these concerns in mind, the Task Force developed a core of elements or cornerstones to help guide its development of a comprehensive plan that would meet the fundamental challenges of achieving diversity and assisting educationally disadvantaged students. These elements provide that the University's outreach efforts should seek to:

- *address all three of the major factors that influence student learning, achievement, and aspirations: schools and teacher expertise, families, and the students themselves [Pre-K-16, Community College, Communication and Technology, and Assessment];*⁽²⁹⁾
- *aim for statewide change, beginning at a regional level, and drawing upon the expertise of educators across segments and levels, which will benefit all students [Pre-K-16, Community College, Graduate, and Assessment];*
- *grow and develop over time, and result in a steady narrowing of the gap in achievement between disadvantaged students and others, employing short term, intermediate-term, and long-term strategies [Pre-K-16, Assessment, and Communication and Technology];*
- *include active and high-level participation of UC faculty to direct a strong research, training, and evaluation component to provide academic leadership and direction to outreach programs (including programs that have as a principal focus the preparation of new teachers to work effectively with educationally disadvantaged students and low performing schools), and to assure that program practices are educationally sound and outcomes rigorously evaluated [Pre-K-16];*
- *recognize significant faculty contribution to outreach activities in the traditional University faculty reward structure [Pre-K-16];*
- *involve teachers and faculty as partners in University outreach [Pre-K-16, Graduate];*
- *produce increases in levels of both UC eligibility and competitive eligibility (admissibility at the most selective UC campuses) among disadvantaged students [Pre-K-16 and Assessment];*
- *build upon existing outreach program efforts demonstrated to have been successful in the past, recognizing that these programs will need to reshape their goals and methodology to set higher expectations for students to adjust to the competitive climate, and coordinate efforts with programs addressing school and family needs [Pre-K-16, Assessment, and Graduate]; and*
- *consider the full scope of students' educational progress from kindergarten to graduate programs, and draw upon the capacity of all segments -- K-12, community colleges, and universities -- to develop students' skills, employing a broader range of institutional resources, including*

University students and alumni, in outreach efforts [Pre-K-16, Community College, and Graduate].

C. Proposed Plan

What follows is an outline of the plan developed by the Task Force to meet its two major goals of student diversity and assistance to disadvantaged students. The plan proposes a three-point strategy addressing a broad range of issues influencing student achievement. Moreover, each strategy has a specific time-frame within which results are to be achieved: long-term, intermediate-term, or short-term:

1. ***School-Centered Partnerships:*** Establish regional partnerships including a limited number of school systems and local colleges and universities (especially community colleges and CSU campuses) in regions served by UC campuses (including the Central Valley), to address the full range of culture and practice in a limited number of partner schools to achieve major improvements in student learning outcomes. Through this regional partnership concept, educational institutions will align goals and priorities, region by region, and devote resources for maximum outcome;
2. ***Academic Development:*** Expand successful current academic development programs to increase the number of disadvantaged students who are eligible and competitively eligible to attend the University; and
3. ***Informational Outreach:*** Aggressively identify and educate families, early and throughout the academic process, to involve them much more deeply in their children's planning and preparation for college and to encourage family support for school improvement. This process will be linked with intensive recruitment of disadvantaged students for enrollment at UC, keeping in mind the role of parents as key participants and decision makers in the educational process.

This proposal addresses the elements established by the Task Force as noted in part A above. Grounded at all of the University's campuses and encompassing all regions of the state, it will build upon already proven efforts. The proposal is multi-dimensional with a long-term component addressing the root causes of under-achievement and linking all major educational sectors in California in a common purpose. It addresses the needs of California youth from an early age until University enrollment and aims to prepare students not just for University eligibility, but for academic competition at the most exacting levels. Finally, it draws on the expertise of University faculty in new and important ways and looks to the development of programs for recruitment and support of teachers in ways that the University is best equipped to effect.

1. School-Centered Partnerships

a. Establish and/or Strengthen Existing Regional Consortia

In order to effect broad and long-term change in the achievement patterns of disadvantaged students, the Task Force recommends that each UC campus take a leadership role in establishing a regional consortium of educational institutions and other partners to address the needs of a

manageable number of local partner school systems (K-12) where preparation and college-going rates are low and where substantial potential for improvement exists. In addition to partnerships with schools in the local area of each campus, a consortium will be formed of UC campuses and the University's systemwide office to establish a partnership with schools located in the Central Valley.

The intent of the regional organization is to leverage resources by connecting and concentrating multi-institutional efforts and directing them to a limited number of schools. Via the partnership organization, priorities can be established, information shared, and joint strategies pursued. The consortia will include public schools, other postsecondary institutions (such as local community colleges and CSU campuses), community-based agencies, local business and corporate agencies, and/or UC alumni, staff, and students to nurture improvement in college preparatory school programs. Efforts promoted by the consortium may include, for example, curricular enrichment, instructional enhancement, and expansion of college preparatory counseling. In particular, UC faculty on each campus, other postsecondary faculty involved in the consortium, and UC alumni and staff would act as a resource to regional groups and advise on strategies for addressing educational issues and problems. To support these efforts throughout the state, the University would work with regional consortia in securing outreach resources from public sources, including school-based funds in partnership with K-12, while individual campuses seek funds from individual and corporate donors. During the coming year, the University should work with other universities and with K-12 and community colleges to sponsor a major statewide conference on educational partnerships.

The primary aim of regional partnerships is to effect changes in the academic culture within partner schools, creating and sustaining a school culture that supports educational achievement and high academic standards. To achieve such whole-school changes, partnerships will need to provide a comprehensive array of resources and programs involving not only students, but families, teachers, counselors and administrators at each school site. Student-centered academic development programs such as EAOP and MESA will be continued and intensified, but partnerships also will go beyond these traditional types of outreach efforts to incorporate teacher-centered and curriculum-based programs aimed at training and developing teachers and improving the academic curriculum within partner schools. As described later in this section, a variety of exemplary programs involving teacher development and curricular reform, such as the California Subject Matter Projects, are already available across the state, and there is no need to "re-invent the wheel." What is needed, however, is for each UC campus, in collaboration with its regional partners, to mobilize these programmatic resources and focus them more systematically on improving teaching and learning in partner schools.

b. Develop Partnerships with Individual School Systems

Identification and Selection of Partner Schools: Using data from the California Basic Education Data System (CBEDS), as well as College Board and University admissions data, campuses should identify by January 1, 1998, high schools and feeder schools (i.e., junior high schools and elementary schools) for participation in the regional consortia. Campuses will have flexibility to use a variety of indicators of educational disadvantage in identifying partner schools. These indicators may include, *inter alia*, graduation or dropout rates, UC "a-f" course availability and completion rates, Advanced Placement and honors course availability and completion rates, standardized test-taking rates and scores, and/or percentage of disadvantaged students applying and enrolling at UC.

These partner schools also must have the potential to improve through participation in a K-12/University Partnership. A partner school's potential to benefit from the partnership may include such factors as:

- ☐ a motivated administration committed to making significant improvement in student performance;
- ☐ a dedication to high academic standards and the development of evaluation methods that measure desirable outcomes;
- ☐ a core group of teachers who are willing to participate in K-12/University sponsored curriculum and professional development;
- ☐ a cadre of counselors and teachers who are willing to serve as key contacts for University outreach staff, and participate in postsecondary education outreach activities to schools (e.g., as program advisors or classroom teachers, participants in counselor conferences, and visits to University campuses, and participants on University committees);
- ☐ a willingness to help seek new funding for school improvement projects and to provide matching resources for K-12/University partnerships;
- ☐ a commitment to acquire the tools for full access and use of the Internet;
- ☐ a motivated parent group willing to recruit other parents to participate in school improvement activities; and
- ☐ a group of community-based organizations (churches, businesses, nonprofits) in close proximity who are willing to work to improve student academic performance. ⁽³⁰⁾

In light of the fact that these comprehensive partnership approaches will be a relatively new endeavor for the University as a whole, it is important to be clear about the intent of these partnerships and their relationship to outreach. University/school partnerships are meant to be authentic collaborations, characterized by mutual trust and respect among the partners, the development of common goals, and shared responsibility and accountability. While the emphasis from a University perspective must be to enable capable disadvantaged students to prepare for and enroll at the University, it must be recognized that mutually beneficial goals for all partners must be developed if these efforts are to be successful. Each partner must gain. Developing common outcomes and defining the methodologies to best accomplish these outcomes are essential aspects of creating successful results. The linking of long term systemic change efforts with the desired outcomes of outreach is a new conceptualization for these partnerships. It is the approach, however, that the Task Force perceives has the best chance of meeting, in the long run, the pressing challenges of preparing disadvantaged students to enroll and succeed at the University.

c. Working with Teachers in Partner Schools

One of the most important factors for the success of the "school-centered" strategy proposed here is the *involvement of teachers in partner schools*. Teachers in partner schools must be centrally involved at each stage of a long-term school improvement process. In particular, resources need to be focused more systematically on three issues related to teachers and teaching: 1) recruitment and preparation of new teachers; 2) retaining teachers and reducing turnover; and 3) providing ongoing professional development opportunities for teachers in partner schools.

Preparation and Recruitment of New Teachers: A major issue for the teaching profession is the enormous growth in the numbers of young people for whom teachers will be needed. Recent

estimates indicate that California will need anywhere from 17,000 to 30,000 new teachers per year over the next decade as a result of retirements in the current teacher corps and increases in the student population.⁽³¹⁾

In schools serving disadvantaged students, the need for new teachers is especially acute because of high rates of turnover in the teacher corps. Teachers in these schools are much more likely to be young and inexperienced and much more frequently teach outside their area of training. Mathematics and science teachers are in especially short supply for disadvantaged schools. In light of the above, the University recognizes that it must work, jointly with the CSU system and other institutions engaged in teacher preparation, to encourage the expansion of 1) programs of formal instruction -- including part-time graduate programs -- for preparing new teachers and administrators who can work effectively with educationally disadvantaged students, and 2) programs for retaining these teachers and administrators as University partners within efforts to improve low performing schools.

The Community Teaching Fellowship (CTF) is one example of a program that appears promising as a means of recruiting new teachers, particularly in the critical areas of math and science, for schools in low-income, urban areas. CTF is a program that recruits UC undergraduate and graduate mathematics and science majors to tutor and work with K-12 students in these schools. Participating UC students receive a fellowship stipend for supervised internship experiences in the schools; at the conclusion of the fellowship, students are recruited to enroll in University teacher preparation and credential programs. At UCLA, for example, this program has prepared and placed 65 new math and science teachers in LA schools with large populations of disadvantaged students over the last two years.

Retention of Teachers at Partner Schools: Research shows that half or more of new teachers in low-performing schools leave within one year. In addition to preparation and recruitment, therefore, it is essential to provide ongoing support for teachers in these schools.

The Beginning Teacher Support and Assessment (BTSA) program is an example of a programs that has proven effective in reducing attrition among teachers and that also might be usefully expanded in support of school-centered outreach efforts. BTSA is a competitive grants program sponsored by the California Department of Education. The program employs veteran teachers to advise new teachers and assist with short and long-term planning, demonstrate classroom management strategies, provide curriculum resources, and so forth. Several UC campuses, in collaboration with local county offices of education, have already established BTSA programs. The UC Santa Cruz BTSA program, for example, has achieved a 92% retention rate among the 450+ new teachers it has served.

Professional Development for Teachers in Partner Schools: In addition to efforts to recruit and retain teachers in partner schools, providing on-going professional development and training opportunities for teachers in these schools is perhaps most vital. To have any substantial impact on the academic environment of these schools, programmatic efforts must focus particularly on professional development programs aimed at improving teaching and learning in the subject areas required for University admission.

The University of California's Subject Matter Projects are strategically positioned throughout the state (on both UC and CSU campuses) to support teachers' professional development needs in this

regard. The projects are discipline-based (in the "a-f" subject areas), involve faculty from education as well as other academic departments, and draw heavily on expert teachers (K-12) from the local regions as leaders to teach and support their colleagues. The Projects have substantial capacity and experience in developing and deepening teachers' content knowledge, expanding their range of effective teaching practices to meet the needs of a diverse student population, and supporting teachers' needs for collegiality and professional enrichment outside of the school environment and culture. The project sites collectively and individually represent an existing statewide infrastructure -- already supported by state funds -- that could play a vital role in working with a single partner school or a cluster of schools over the course of several years.

In addition, the University must work towards providing increased opportunities for elementary and secondary school teachers, whether teaching at partner schools or elsewhere, to make better use of the University's resources -- for example, through increased access to UC courses, library and other information resources, research expertise, and consultation with faculty and staff -- within their own efforts to reduce the educational disadvantages of their students.

As this brief review suggests, a variety of models and resources for teacher recruitment, retention and development already are in place across the state. The need now is to mobilize and expand these programs as part of a comprehensive array of services in support of teachers within partner schools.

d. Productive Partnerships

Collaborations among educational institutions for improvement of student performance are, of course, not new. What is most innovative is the involvement of heads of all major sectors of the educational community in a region, with parents and business leaders to focus their collective efforts on well-defined standards of student achievement among all students in partner schools. In both breadth and depth, the proposed collaborative aims well beyond most previous efforts.

The Education Trust, located in Washington, DC, has pioneered this type of collaborative model as a means of attaining large-scale educational improvement. Projects undertaken in the early 1990s in several sites around the country are now beginning to show results.⁽³²⁾

To take one example, the El Paso Collaborative for Academic Excellence, which includes as members civic, business, and educational leaders from throughout El Paso County, has recently issued a report based upon its last five years of work.

The report notes that the collaborative has enhanced the capacity of El Paso schools to offer a high quality mathematics and science curriculum and instruction program to all students, turning around low achievement patterns in those key subject matter areas among a largely minority and disadvantaged student population. Recent data reveal dramatic improvement in mathematics and science teaching and learning in El Paso schools. Significant gains have been made in the proportion of students taking and passing algebra and geometry in 9th and 10th grades; fewer students have been identified as "low-performing" by the Texas Education Agency; and many more students have passed all Texas Assessment of Academic Skills tests.

What are some of the tactics adopted by the collaborative that have brought about this improvement? First, the collaborative has established content standards in mathematics and science

that are uniformly high for all students and that are based on the best national standards. Second, it has invested significant resources in assisting teachers at the elementary level to provide high quality mathematics and science teaching and learning. Third, recognizing the importance of assessing student progress, the collaborative has advocated on behalf of richer, standards-based assessments. And fourth, the collaborative has engaged a wide set of community members in the education improvement process, with particular emphasis on ensuring that parents understand the standards and how well their children are doing in reaching the standards, and in learning how parents can help their children, and the schools, do better.

California also has examples of promising partnerships, such as the Monterey Bay Educational Consortium (MBEC). MBEC brings together educational institutions (UC, CSU, California community colleges, and K-12) to further collaborative inquiry and joint problem-solving and to develop additional cooperative initiatives directed toward improving curriculum, pedagogy, policy, and the public's understanding and support of education. MBEC's priorities include early literacy efforts, teacher and administrator training, expansion of technology and communications in the service of education, and increasing public understanding and support of educational programs.

A second example, just getting underway, is the San Diego K-16 Executive Council, which was established this past year to provide a forum for higher education leaders to exchange ideas and work on common projects with K-12 superintendents, community college presidents, and the San Diego County Office of Education. As an initial project, of interest to all members, the Council chose to address the issue of student performance on college placement tests in English and mathematics.

2. Enhancement and Expansion of Academic Development Programs: An Essential Intermediate Outreach Approach

While the development of University/school-centered partnerships is a long-term strategy, modification and expansion of current academic development programs is an intermediate one, designed to increase the number of disadvantaged students already in the educational "pipeline" who will qualify for University admission and enrollment. It is anticipated that this modification and expansion effort will begin to show results in two to three years. This strategy builds upon established undergraduate outreach programs such as EAOP, MESA, and Puente, and such graduate outreach programs as summer and year-round traineeships, that have proven successful in the past.

a. Current Academic Development Programs

The contribution of academic development programs for individual students is essential to the success of the proposed plan. These programs have infrastructures in place and are positioned to assist a large number of disadvantaged students within a short timeline, especially if they can expand their presence within California schools. Currently, the University's academic development programs have a significant presence in only about 7.5 percent of California public schools.

The Task Force recommends that successful current University-wide academic development programs be enhanced and expanded to serve more students. The PACE report recommended that

the following characteristics be embedded in student-centered academic development programs. Unlike the criteria described earlier which apply to all outreach programs (see Section VI. A.), these characteristics are unique to academic development programs and have been found to be especially effective in assisting disadvantaged students: early information about preparing for college; family involvement; academic counseling; tutoring and mentoring; study skills and specific academic skills; preparatory summer academies and residential bridge programs; and college admissions and placement test preparation. Those current academic development programs that have, or will adopt, the above characteristics and that are shown to be most effective by assessment measures will be eligible for expansion. 

b. Expansion of Academic Development to Primary School Students

Currently, the primary focus of UC academic development programs is on students in middle and senior high schools. Research shows that many disadvantaged students begin to perform below the norm as early as the third and fourth grade, and the achievement gap increases as they move through the educational pipeline. It is thus critical that academic development programs begin to provide outreach services to students and their families in primary schools.

Research also shows that parents have a greater influence on students' education at the primary than at the secondary level. Academic development family components should assume greater responsibility for informing families of the need for high standards of academic achievement, early academic preparation and financial planning for college and link them with programs designed to develop strong language arts and mathematics skills in K-6. Disadvantaged families often understand the value of higher education and its relationship to financial betterment but frequently lack a clear sense of what is required for admission and success in college work. When appropriate, staff also should make family and student referrals to social services, health care agencies, and adult education centers.

c. Expansion of Academic Development Programs to California Community College Students

Academic development models have not generally been used to recruit large numbers of community college transfer students. The University uses mostly short-term efforts such as school visits and counselor training programs, and has lacked a substantive strategic vision about how best to recruit these students. Yet academic development models have been applied in a limited way and have proven effective. For example, the Puente Program has been successful in preparing students in community colleges for transfer to the University for the past 16 years. More recently, MESA has created a hybrid from two of its student program divisions (the K-12 model and the industry-oriented outreach and support effort for undergraduates) and implemented this new model at eleven community colleges. This has resulted in an increase in the number of transfers studying math- and science-based majors.

Expanding academic development activities to students attending community college is an appropriate extension of a model that has proven successful in high schools and, on a smaller scale,

within community colleges themselves. At the core of this model is the identification of promising and committed students who could benefit from completing a baccalaureate degree; provision of information about the type and extent of preparation they will need to attend a four-year college; and counseling and support services, such as academic excellence workshops and tutorial services, that boost academic achievement.

Several promising ideas have been suggested that might, in combination, prove successful in aligning academic development programs with community colleges and, in doing so, address Task Force goals:

- ***Expansion of the Puente and MESA models to a greater number of community colleges.*** Currently Puente and MESA are established at 39 and 11 community colleges, respectively. The University needs to work with the California Community College Chancellor's Office to sponsor the establishment of these programs at a significantly greater number of community college campuses.
- ***Extension of EAOP to community colleges.*** A significant proportion of EAOP students do not enroll in baccalaureate programs, opting instead to attend a community college. In 1994, for example, 30 percent of seniors in EAOP enrolled in California community colleges. These students choose to attend a community college instead of the University for a variety of reasons (proximity, access, affordability, etc.) and it would be wrong to label such decisions as anything other than "successful" since the express aim of EAOP is to help students make the transition to college. The Task Force recommends that the University continue to follow-up with these students during their community college careers. Such follow-up would include the type of activities that EAOP currently does well -- informational workshops, tutoring, and counseling, for instance -- but it would be devoted to helping students transfer to the University after completing their lower-division curriculum in a community college.
- ***Closer coordination with community college transfer centers.*** The Task Force proposes that the University more closely align its high school academic development programs, such as EAOP and High School Puente, with community college transfer centers. The University would share with the transfer centers information about the students in its high school programs. These centers, in turn, would direct their activities to these students during their tenure at the community college, providing information and guidance about the transfer process to a UC campus.
- ***UC/Community College Transfer Alliance:*** A new program should be developed jointly by the University and California community colleges to help students make a timely and smooth transition from a community college to a UC campus. The goal of this alliance is to increase the UC transfer rate of students who participated in high school or community college academic development programs. ~~The alliance also could be developed as one of the options available to regional partnerships.~~
- ***Enhanced intersegmental student-information exchange:*** Technology-based efforts, such as Gateways, Pathways, Project ASSIST, and Nexus, should play a central role in helping to expand academic development programs to the community colleges by providing a database warehouse for outreach staff, enabling them to track students, monitor their academic progress, and provide strategically timed counseling and UC information.⁽³³⁾
- ***Improvement of articulation procedures:*** Programs such as ASSIST have made very substantial progress in improving the accuracy and timeliness of articulation information and have given students and others much greater access to the data. Nevertheless, accurate and timely articulation continues to represent a hindrance to students in the transfer process, and

efforts to refine articulation procedures should continue. These efforts should focus in particular on ways of alerting students to the requirements of the academic major they are pursuing.

d. Academic Development Programs for Graduate and Professional School Students

Proper academic preparation is no less important for the student considering graduate or professional school than it is for the high school student applying to college for the first time. And not surprisingly, the University's outreach model for attracting disadvantaged students to its graduate and professional schools is similar to that of its outreach to high school and community college students. While differing substantively in intellectual emphasis and academic skills to be developed, the outreach aims are nonetheless similar: identify prospective students; provide exposure to, and information about, the University's academic programs; and offer assistance in academic skill enhancement. Therefore, the Task Force believes that the virtues inherent in academic development programs described above are equally important for the University's graduate and professional school outreach activities.

With this outreach model in mind, the Graduate/Professional School Outreach Subcommittee surveyed a variety of campus programs, evaluating their programmatic content, disciplinary focus, students served, faculty participation, and linkages with other types of outreach programs. The Subcommittee recommends that the University expand its pre-graduate summer research internship/traineeship programs. In programs held both during the academic year and the summer, promising juniors and seniors are paired with faculty mentors in graduate-level research designed to expose them to the opportunities of graduate-level study and to prepare them for eventual enrollment in graduate or professional school. Students in these programs typically spend 30 or more hours per week working on research in a laboratory or library. Faculty and students are matched according to mutual research interests, and faculty work closely with students as mentors. In addition, seminars, lectures, and workshops provide skills enhancement and essential information about graduate study.

Expansion of these pre-graduate research internship programs has several advantages over other types of post-graduate outreach:

- ***Outreach Success:*** These programs have a record of successful outcomes. A recent survey of the University's summer programs indicated nearly 80 percent of all students who participate in these programs enroll in graduate or professional school within three years. In addition, these programs have been found to be attractive both to currently enrolled UC undergraduates and to students nationally;
- ***Faculty Involvement:*** These pre-graduate programs involve a significant degree of faculty participation, both in the design of the programs and in their administration. More importantly, faculty are involved in a day-to-day advising and mentoring role with participating students and, as a result, are able effectively to model the graduate research experience to promising students;
- ***Diminishing Federal Support:*** As successful as these programs are, support from the Federal government has been slashed by 60 percent, with additional cuts proposed for the future. Thus, the need for increased University support is critical; and
- ***Focus on Academic Development:*** The development of academic skills is a model that has

been used successfully at all levels of University outreach and is no less effective at the graduate and professional school level.

e. Other New Academic Development Initiatives

In addition to the recommendations above that apply generally to academic development activities throughout the University, individual campuses and programs may also wish to consider the following specific initiatives on an experimental, pilot, or expanded basis:

- **High School Puente:** In 1993 Puente expanded its successful community college program to 18 high schools. The program, like its community college counterpart, provides intensive writing instruction, academic counseling, community mentors, parent workshops, and professional development components for teachers.
- **Business MESA:** The MESA undergraduate model, which currently focuses on students' academic development within math- and science-based fields, should be extended to other fields of study. The current MESA model has helped to boost retention and academic advancement of students in science and engineering and appears to be applicable to other fields of study. The Task Force favors an initiative that would orient students toward business-oriented disciplines such as accounting and economics, which are areas of interest to many students.
- **Advanced Placement courses:** The University should urge the State to support development of a full array of Advanced Placement courses (including means for teacher training and costs of test administration) for all high schools. Such an addition would be an important tool in promoting higher standards of achievement.
- **Charter schools:** Campuses also may wish to experiment with charter schools as a means of accelerating academic development efforts for disadvantaged students. Some UC campuses already have developed links with charter schools or have plans to establish one. The Task Force recommends that these efforts be assessed as an additional means of expanding access to higher education for disadvantaged students.
- **Electronic delivery of "a-f" and honors courses to students in underserved schools:** A key obstacle to UC eligibility for some students is the absence in their schools of "a-f" courses required for admission to UC, as well as honors courses that also can enhance students' admissibility. To address this problem, the University should extend its experimentation with "distance learning" techniques to seek to provide these courses to students who might not otherwise be able to take them.

3. Informational Outreach

The third major strategy proposed by the Task Force is to make more intensive use of new information and communications technologies and other means to provide better and more timely information about UC programs to students, families, teachers, and counselors.

a. Informational Outreach to Students

The PACE report emphasizes the importance of early, sustained, and strategically timed intervention. It is crucial that students in primary and middle schools, and their families, be informed of the need to develop strong basic language and mathematics skills necessary to enroll in "a-f" subjects in the ninth grade. It is equally important to provide high school students timely

information on UC admissions requirements, undergraduate majors, special programs, financial aid and scholarships, and SAT registration dates. Information to students and their families should be user-friendly, engaging, and informative. Informational outreach to students may include: television and radio public service announcements on youth oriented stations; publications and videos; UC calendars highlighting campuses, admission requirements, test dates, admissions and financial aid deadlines; campus visitations; UC websites; presentations at schools, churches, and youth service organizations; and special student conferences (e.g., UC Admissions Preparation Program).

To be effective, informational outreach to students should use a variety of media to provide earlier and more complete information about the University on a regular basis. Academic development programs should use Gateway and Pathways to monitor the number and types of contacts with students.

b. Informational Outreach to Families

Families, especially those from disadvantaged populations, need to be informed early (K-4) that a college education for their children is both attainable and affordable, but that good study habits, individual engagement, and determination are essential. With this information, families can assist their children to prepare academically and consider ways to finance a college education. A comprehensive information dissemination and outreach effort, using print, radio, video, and television, should be focused on families with children in primary and middle schools. These grades are crucial junctures in the educational process, where academic decisions are made that affect choices after high school.

c. Informational Outreach to Counselors and Teachers

Counselors and teachers play a critical role in students' education choices. They often determine the courses students enroll in, and influence their majors, career choices, and the colleges to which they apply and eventually enroll. The Office of the President, in cooperation with UC campuses and the Lawrence Berkeley National Laboratory, is currently developing systemwide initiatives in the area of instructional technology. Two initiatives in particular, Nexus and Gateway, have the potential to enhance counselors' and teachers' understanding of the vast array of University outreach-related information and educational opportunities available.⁽³⁴⁾

d. Financial Aid Outreach to Students and Families

In addition to the academic support and encouragement that students need in order to engage in college preparatory work, they also need consistent, age- and income-appropriate information about the financial aspects of planning for college. Families need information about financial aid and financial planning, not only because their views about college affordability will influence their children's academic decisions, but also because they must plan and prepare for their own responsibilities in this area.

Financial aid plays a key role in making college accessible to economically disadvantaged students.

Federal, State, and University grant programs focus their awards on students whose families are unable to make a substantive financial contribution toward college costs. An undergraduate education at the University of California is not out of reach for low-income students: more than 25% of UC's undergraduate student body come from families with annual incomes of less than \$30,000, and these students receive larger than average grant awards than financial aid recipients with greater family resources. However, the University's informational outreach activities are not as effective as they could be in carrying this message to students and their families, especially in the early years when families make crucial decisions about their children's educational future.

The cost of a college education and the complexities of financial aid and financial planning can be daunting prospects for students and families at all income levels; financial aid outreach is important for all college-bound students and their families. A coherent, strategic, accessible information campaign about issues of education financing is imperative if the University is to combat widespread misapprehensions about college costs and convince economically disadvantaged and first-generation students to prepare themselves for college.

e. Enhancement of Existing Recruitment Efforts

In addition to the new, three-point outreach strategy described, the Task Force believes it also is essential for the University to continue and expand existing recruitment programs and activities. Recruitment, or as it is sometimes called, "immediate outreach," involves efforts to solicit applications and recruit eligible students from disadvantaged backgrounds to UC. Unlike most other outreach programs described above, recruitment focuses on those already eligible or potentially eligible for the University but does not actually aim to enhance college preparation among these students. Recruitment is the critical last step in the outreach "pipeline" whose purpose is to ensure that students who have earlier participated in outreach programs and enhanced their academic preparation subsequently apply to UC and if accepted, enroll at the University.

For groups of students with low UC enrollment rates, data indicate a pattern in which students apply to the most selective UC campuses only, but do not consider applying to less competitive campuses. If they are not admitted to their first-choice campus, many choose to go outside the UC system for their college work. In addition, data on current outreach programs such as EAOP indicate that, while about half of all program graduates become UC-eligible, only about a quarter actually enroll at a UC campus. These findings underscore the continuing importance of recruitment efforts focused on students from disadvantaged backgrounds who are eligible or potentially eligible for UC, but for one reason or another do not apply to or enroll at the University. For the short term, recruitment, in particular campus-based "yield" activities, will be critical to maintaining diversity.

Proposed recruitment/marketing campaign: The Task Force recommends that recruitment efforts be systematically coordinated within the framework of a vigorous Universitywide and campus-based marketing campaign. Two key objectives of such a campaign would be: 1) to broaden the applicant pool by focusing on high school graduates from disadvantaged backgrounds who may be UC eligible or potentially eligible but do not apply to UC; and 2) to encourage students from these groups to consider applying to other UC campuses in addition to the campus of their first choice. The Office of the President should develop an overall marketing plan, including appropriate themes and media to reach intended audiences. Building on the systemwide marketing efforts, campuses would work with partner schools and systemwide outreach programs & shy;

EAOP, MESA, Puente, Pathways, and Gateway & shy; to identify individual students for recruitment efforts.⁽³⁵⁾

The Task Force believes strongly that, while there are many other areas where the "corporate model" may not be appropriate for higher education, immediate outreach and recruitment is one area where the University could benefit substantially from a business-like marketing plan.

Finally, it is important that the University widely disseminate its message of encouragement to pursue higher education, and in particular to prepare for University enrollment, to young people and their parents. This message must be emphasized in communities that have sent small numbers of students to UC in past years and may perceive changes in admissions and outreach policies as discouraging.

VI. NUMERICAL OUTCOMES FOR UNIVERSITY OUTREACH

The Task Force believes it is essential for the University to establish desired numerical outcomes for all UC outreach programs in order to assess the effectiveness of programmatic efforts and measure progress toward outcomes. To this end, the Task Force recommends striving for the following numerical outcomes for each of the three strategic elements of outreach outlined immediately above. Although different programs and regional partnerships may wish to set other specific outcomes in addition to those identified here, the Task Force believes that the numerical outcomes set forth below should apply broadly to all University outreach programs. The outcomes are based generally on rates of improvement achieved by University outreach programs such as EAOP, MESA, and Puente over the past decade, extrapolated to the future. While we acknowledge that achieving these objectives requires and is contingent upon finding ways to enhance substantially the resources and efforts of each campus and the University as a whole, and that the efforts and priorities of institutions other than UC also are involved, the Task Force nevertheless believes these outcomes are realistic and worthy of good-faith efforts.

A. Numerical Outcomes for UC/K-12 School-Centered Partnership Programs

Each UC campus, in collaboration with participating K-12 school districts and other regional partners, shall work to increase the number of UC-eligible graduates from partner high schools by 100% -- or to increase the UC-eligibility rate in these schools by 4 percentage points, whichever is greater -- between 1997 and 2002. For example, if in 1997 a given partner school graduates 25 students who are UC-eligible, the desired outcome would be to produce 50 UC-eligible graduates by 2002. Alternatively, if the UC eligibility rate at this same school were 2% in 1997, the desired outcome would be to increase that rate to 6% by 2002 if achieving this outcome resulted in a larger number of UC-eligible graduates than the first goal.

Each UC campus, in collaboration with participating schools and other regional partners, will work to increase the number of competitively eligible students (i.e., students eligible for admission at the most selective UC campuses) from partner schools by 50% -- or the competitive eligibility rate in these schools by 2 percentage points, whichever is greater -- between 1997 and 2002.

Detailed plans regarding the ways in which the regional partnerships will implement the Universitywide framework for outreach are to be submitted by each Chancellor to the President by January 1, 1998.

B. Numerical Outcomes for Academic Development Programs

Statewide UC academic development programs will work to increase the number of UC-eligible program graduates from disadvantaged backgrounds by 100% between 1997 and 2002.

Statewide UC academic development programs will work to increase the number of competitively eligible program graduates from disadvantaged backgrounds by 50% between 1997 and 2002.

C. Numerical Outcomes for Informational Outreach

Each UC campus will seek to increase the number of outreach contacts with elementary, middle school, high school, and community college students and families from disadvantaged backgrounds by 200% between 1997 and 2002. These contacts may include, but are not limited to, such activities as counseling/advising, informational workshops, school visits, and tutoring.

Each UC campus, in collaboration with its regional partners, shall establish ongoing systems to assess the qualitative effectiveness of information outreach programs by January 1, 1998.

VII. RESPONSIBILITY AND EVALUATION

The outcomes proposed will only be realized if a fundamentally new compact can be struck among the University of California, the California Department of Education, and others such as the California Community Colleges and the California State University, along with the sustained support of the Governor and the Legislature; a compact whose implementation will require partnerships and new definitions of responsibilities among UC campuses and their neighboring K-12 schools. New levels of faculty and staff will be necessary to reach the outcomes proposed, as is the availability of designated resources to support this new level of commitment. Further, the continuing involvement of faculty only can be ensured if their successful involvement in these efforts is appropriately reflected in the academic personnel process by which the activities of faculty are judged.

A. Responsibility

It is important first to assure that all participants in this effort feel a sense of commitment and responsibility toward achieving the outcomes described above. But responsibility cannot be limited simply to outreach program directors or managers alone. The importance of the issues addressed in this report suggests the need for support at the highest levels of responsibility for the public trust, including The Regents of the University of California, members of the State Board of Education, and local school boards. Beyond these, support of elected officials, executive and legislative branches, as well as the people of California, is needed. Within the University of California the burden of responsibility for attainment of outcomes properly rests with the President of the University and the Chancellors of the

campuses, working in partnership with the leadership of Divisional Academic Senates. The Task Force recognizes, of course, that there are many factors in the K-12 school environment outside the control of individual campuses or Chancellors, and that regional partnerships necessarily presuppose a framework of shared responsibility for results. At the same time, however, we believe that Chancellors, as leaders in these partnerships, have the ability to help create and sustain the kind of collaborative relationships needed for success, and to the extent that this is true, Chancellors and the President must bear the primary burden of responsibility for results.

Outcomes for statewide academic development programs will be the responsibility of the program directors. Again, the commitment of K-12, community colleges, and other educational partners will affect significantly the ability of these programs to achieve the intended results.

Finally, the Office of the President will be responsible for: 1) seeking and obtaining public resources so that campuses can support the basic infrastructure for regional outreach efforts; 2) establishing and overseeing a systemwide evaluation mechanism to assess progress toward outreach outcomes; 3) seeking support for academic development programs; and 4) developing and implementing, in conjunction with campuses, new and expanded informational outreach efforts.

B. Evaluation

As the PACE report makes clear, effective evaluation of outreach programs both nationally and within California is much more the exception than the rule, and the Task Force believes that the University must give far more systematic attention to this vital function. One of the key evaluation issues that emerges from the PACE report is the problem of self-evaluation: in most outreach programs, program administrators also are responsible for program evaluation. As a result, evaluation often tends to get short shrift in the competition of other administrative pressures and priorities.

To address this problem, the Task Force recommends that the University establish (or utilize an existing) multi-campus research activity whose mission would include, but not be limited to, evaluation of UC outreach efforts on a statewide basis. Not only would establishment of such a research activity help separate program evaluation from program administration, but it also would help raise the prominence of outreach as a core, rather than peripheral, function for the University -- particularly among UC faculty.

The Task Force does not presume to determine what precise form or intellectual direction such a research unit might take. It has been suggested that current campus organized research units (ORU) or multi-campus research units (MRU) might be combined or modified to form a new MRU, and that is one possibility. However, this new MRU, or other activity, like others already established at the University, would conduct research both applied and basic and would involve the contributions of scholars from a variety of disciplines. Moreover, this MRU would undertake a variety of research topics. For example, in addition to narrower issues of program evaluation, broader intellectual and academic issues also are at stake in the area of outreach. One such task that might be appropriate to such a group is the bringing together of research expertise from across UC, CSU, and K-12 to identify instructional, organizational, mentoring, and other support strategies that can address different components of systemic reform including curriculum, assessment, preparation and professional development of teachers and administrators, and school organization. By involving UC faculty more centrally in research and intellectual inquiry focused on the continuum of learning from K-12 through undergraduate and graduate instruction, the Task Force believes such a Universitywide research unit would help to elevate the importance of UC outreach to K-12 schools within the academic and intellectual life of the University,

while also providing practical evaluation data of both a formative and summative kind on the effectiveness of University outreach programs. With greater faculty commitment in this regard, activities related to outreach should be given substantially more weight in faculty advancement consideration.

VIII. OUTREACH RESOURCES

The following sections provide initial cost estimates to implement the Task Force's recommendations in four main areas: (1) school-centered outreach, (2) academic development programs, (3) informational outreach, and (4) infrastructure needs, including costs related to program evaluation, administration, and information technology. Extrapolating from experience with existing outreach programs, the figures presented here are intended as preliminary estimates of the additional costs, beyond the costs of existing outreach efforts, to implement the full range of recommendations proposed in this report. It should be emphasized that these estimates reflect not just the University's costs, but the overall costs of implementation, including costs that might be borne by K-12, Federal and State programs, as well as the private sector. The issue of how these additional costs might actually be funded is taken up in Section E below.

A. School-Centered Outreach

A key focus of school-centered outreach will involve working with teachers, counselors, and administrators in partner schools. To have any substantial impact on the academic environment of these schools, programmatic efforts must focus particularly on professional development programs aimed at improving teaching and learning in the subject areas required for University admission, together with enhanced recruitment and retention efforts for teachers in these schools.

In estimating the potential costs involved, the University has relied primarily on cost data from existing programs of this type. For teacher development programs, for example, the estimates are based on the California Subject Matter Projects; for teacher recruitment programs, the Community Teaching Fellowship program was used as a model; and for retention programs, the Beginning Teacher Support Assessment program. These programs have been described earlier in the report. It should be emphasized, however, that use of these programs for cost-estimation purposes does not preclude campuses and their regional partners from utilizing other programs to achieve similar ends. These programs are presented only as examples of the type of programmatic activities involved and because there are reasonably good data on them.

Teacher development is the largest single cost category under school-centered outreach, as shown in Figure 6 (next page). Based on experience with the California Subject Matter Projects (CSMP), an estimated total cost has been determined for each participating high school and eight associated "feeder" schools (two middle schools and six elementary schools), for providing a full array of professional development programs for teachers in each of the "a-f" subject areas required for University admission. These programs include intensive summer (or intersession) institutes, typically four weeks with follow-up, to support the enhancement of content knowledge and the improvement of teaching strategies within each partner school; a special focus for summer institutes is on developing teacher leadership. In addition, CSMP

Figure 6

ESTIMATED ANNUAL COSTS TO IMPLEMENT TASK FORCE RECOMMENDATIONS

School-Centered Outreach

Teacher Development Programs	<u>\$18,500,000</u>
Teacher Recruitment and Retention Programs	<u>\$6,200,000</u>
Scholarship Program	\$2,500,000
Sub total, School-Centered Outreach	\$27,200,000

Academic Development (Student-Centered) Outreach

Expansion of Academic Development Programs	\$17,900,000
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Informational Outreach

Programs for Students	\$2,700,000
Programs for Families	\$1,850,000
Programs for Teachers and Counselors	\$1,450,000
Expansion of Existing Recruitment Programs	\$1,900,000
Sub total, Informational Outreach	\$7,900,000

Infrastructure Needs

Program Evaluation: MRU and Data Collection	\$1,550,000
Program Administration	\$1,500,000
Information Technology	\$4,500,000
Sub total, Infrastructure Needs	\$7,550,000

Grand Total	<u>\$60,550,000</u>
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programs include school-based in-service training in the a-f subject areas during the regular academic year. For cost-estimation purposes, it is assumed that in-service programs would be offered as a series of seven to ten coordinated sessions held after school and/or on professional development release days. Altogether, these activities -- including summer institutes, in-service programs, and funding for release time and salary support for teachers to attend these activities -- yield a cost estimate of \$370,000 per year to support professional development activities within each partner high school and its associated "feeder" system; multiplied across 50 partner high schools and associated "feeder" systems, the total cost of

professional development programs for teachers is calculated at \$18.5 million annually. These programs would serve an estimated 17,250 teachers in 450 schools statewide (50 high schools, 100 middle schools, and 300 elementary schools). 4

The second major cost item under school-centered outreach involves recruitment and retention of teachers at partner schools. Two promising programs now offered on most UC campuses have demonstrated success in recruiting and retaining new teachers in schools serving large numbers of disadvantaged students. The Community Teaching Fellowship (CTF) program awards one-year fellowships to junior and senior mathematics and science majors at UC to work as tutors and mentors in selected schools, typically five hours per week. At the conclusion of the fellowship year, students are recruited to enroll in university teacher preparation and credential programs. The cost of the program, including the fellowship stipend, support seminars and related expenses is about \$8,000 per fellow per year. For purposes of this resource plan, support for eight fellows within each cluster of partner high schools and associated "feeder" schools has been included, for a total of \$64,000 per cluster. Extrapolated across 50 partner clusters, the total cost for teacher recruitment programs of this kind is estimated at \$3.2 million per year.

Retention of teachers in disadvantaged schools also is a critical problem, and Beginning Teacher Support and Assessment (BTSA) is a program that has proven effective in addressing this problem. BTSA provides on-going support for new teachers in their first or second year of teaching. Support includes regular seminars on selected high interest topics with university faculty and staff, as well as experienced teachers. Based on current program costs, an estimate of the total cost for each UC campus to implement this program to serve teachers at five partner school clusters (including "feeder" middle and elementary schools) would be about \$300,000 per year. Extended across all UC campuses and the Central Valley site, the total cost for teacher retention programs is estimated at \$3 million annually. 1

In addition to these programs directed toward teachers in partner schools, student-centered academic development programs such as EAOP and MESA also would continue, both within partner schools and in other schools statewide. These costs, however, are dealt with separately under the section on academic development programs below.

Finally, one other small but important category of costs included under school-centered outreach is a scholarship program, modeled on the successful experience of the Berkeley Pledge. This program provides complete scholarships to UC, including student fees and room and board, to the top graduate each year from partner high schools. The program has proven an extremely effective symbol of UC's commitment to the schools, in addition to helping foster a culture of educational achievement and high academic standards, and has been included in the resource plan for these reasons. At approximately \$50,000 per student for a 4-year scholarship, this adds \$2.5 million annually to the total for school-centered outreach when extended across 50 partner high schools statewide.

The overall total for school-centered outreach ­ including teacher development, recruitment and retention programs together with the scholarship program ­ is estimated at \$27.2 million per year.

B. Academic Development (Student-Centered) Outreach

The Task Force proposes, as one of its goals, to double the number of UC-eligible participants from existing, student-centered academic development programs over the next five years. To estimate the potential costs that might be required to achieve this goal, available data on the per-student costs of each

of these programs were used. In the case of MESA, for example, program funding from all sources was \$5,449,000 in 1994-95, and a total of 14,604 students participated in this program, yielding an average cost of \$373 per student. Per-student cost data for MESA and other programs were calculated from information published by the California Public Postsecondary Education Commission in its report, *Progress Report on the Progress of Collaborative Student Academic Development Programs (CPEC, December 1996, Commission Report 96-11)*. In addition to UC-based programs such as EAOP, MESA, and Puente, data for major non-UC programs such as AVID and Cal-SOAP were included in the calculations, since these programs also help produce many UC-eligible students.

Taking the per-student costs of each of these programs, the total additional cost was calculated based on the assumption that doubling the number of successful program outcomes would require at least a doubling of the number of program participants. In fact, this assumption may be conservative, for two reasons. First, broadening the base of program participants may result in some decline in program yields. Also, the comparatively low per-student costs of these programs reflect the fact that many participants are involved primarily in informational and motivational activities, and relatively few participate in more intensive and costly academic development activities such as summer programs. Stronger emphasis on the development function, as recommended in this report, could therefore be expected to increase per-student costs. On the other hand, expansion of these programs also will create economies of scale, counteracting some of these cost pressures. Given the uncertainties involved, the most prudent current assumption for purposes of estimating future program costs is to assume that the number of program participants will need to be at least doubled in order to achieve the Task Force's proposed goals.

Based on this assumption together with published cost figures for each major program—EAOP, MESA, Puente, AVID and Cal-SOAP—the total cost of expanding these programs to achieve the Task Force's proposed goal is estimated at \$17.5 million. This amount would provide funding for 115,000 additional program participants, raising the proportion of students who participate in these programs from 2% to about 4% of the total of 5.5 million students now enrolled in public K-12 schools in California.

In addition to academic development at the undergraduate level, the Task Force subcommittee on graduate outreach programs also has recommended increasing resources to expand academic development efforts at the graduate level. Taking together this amount with the estimated costs of the undergraduate programs, the overall cost of scaling up academic development programs to the level proposed by the Task Force is estimated at \$17.9 million.

C. Informational Outreach

Informational outreach includes four main areas: (1) programs for students, (2) programs for families, (3) programs for teachers and counselors, and (4) expansion of existing recruitment programs. It should be emphasized that the programs considered here focus primarily on educationally disadvantaged students, their families, teachers and counselors, above and beyond the University's general communications programs for the public at large. As recommended by the Task Force, these programs are intended as part of an aggressive communications campaign to provide better and more timely information to disadvantaged students and their families about UC admissions requirements and to provide a clear message to these students that the University is attainable, affordable and welcoming to them.

Programs for students would involve a variety of media appropriate to those at different grade levels. At the elementary school level, for example, media such as newspapers for K-8 students, computer learning games, flash cards and special events programs would be emphasized, whereas at the high school and Community College levels, CDs, videotapes, brochures, and a Community College website would be developed. Based on current costs for these types of activities, the resource plan includes \$2.7 million for student information programs, the largest expense category under informational outreach. (Note that the costs of information technology, per se, are considered in the following section on infrastructure costs.)

Programs for families would emphasize booklets, videotapes, calendars and other multi-ethnic, multi-language media to reach families of disadvantaged students -- particularly at the critical, early stages of planning for college -- to provide better information about the kind of academic preparation needed for admission to UC. The resource plan includes \$1.85 million annually for this purpose.

Programs for teachers and counselors would involve statewide and regional conferences, workshops and institutes aimed primarily at improving academic advising in disadvantaged schools. Based on the costs of other counselor conferences currently sponsored by UC, \$1.45 million annually has been included in the resource plan for this purpose.

Finally, \$1.9 million per year is earmarked for expansion of existing recruitment programs. These programs focus particularly on disadvantaged students at the tail end of the K-12 "pipeline" & shy, those nearing graduation from high school & shy, to ensure that, among those who do achieve UC eligibility, the University takes every possible step to maximize the number of these students who in fact apply to, and enroll at, UC. In addition to generalized media such as brochures and booklets, recruitment programs also involve more individualized activities such as family nights and campus visits programs for top students from disadvantaged schools. Overall, adding together recruitment costs with programs for students, families, teachers and counselors described above, the total cost associated with informational outreach is estimated at \$7.9 million annually.

D. Infrastructure Needs

Infrastructure needs are broken down into three main areas: (1) program evaluation, (2) program administration, and (3) information technology.

Improving evaluation of University outreach programs is one of the Task Force's highest priorities. The estimate of \$1.55 million within the category of program evaluation shown in Figure 6 reflects two main types of costs. First, as recommended by the Task Force, the resource plan includes costs of \$750,000 annually to support a multi-campus research unit (MRU) for UC faculty to design and direct program evaluation efforts. Second, the resource plan also includes \$800,000 annually to provide staff support to facilitate data-collection efforts at the campus and regional levels, working in conjunction with program and school staff in partner schools. The expectation is that these staff would perform day-to-day data collection and database maintenance, whereas overall responsibility for evaluation design and analysis would rest with MRU faculty.

The program administration category primarily reflects the cost at each campus for a regional administrative coordinator and staff responsible for coordinating outreach programs within and among

partner schools. At each UC campus and the Central Valley, \$150,000 is budgeted for this purpose, for a total of \$1.5 million annually.

Finally, the largest cost item under infrastructure needs is information technology. The resource plan includes \$4.5 million annually for information technology in support of K-12 outreach efforts. It should be re-emphasized that this figure includes not only UC's costs, but the overall costs associated with information technology, some of which may be borne by the University's regional partners including those in the private sector. The costs show here reflect infrastructure needs related to hardware, software, training and systems support in order to extend outreach efforts to K-12 via new computer and internet technologies. Included, for example, are the costs of providing, maintaining and upgrading computer and internet access within disadvantaged schools. It is recognized that there are likely to be large initial costs as well as ongoing costs in this area; the \$4.5 million estimate for this purpose is intended as an approximate annual cost averaged over the first ten years of the resource plan. Altogether, including costs associated with program evaluation and administration as well as information technology, total infrastructure costs for the resource plan come to \$7.55 million annually.

E. Funding the Plan

Overall, the total cost shown in Figure 6 to implement the Task Force's recommendations & shy; including school-centered, academic development programs, and informational outreach programs, together with related infrastructure needs & shy; is estimated at \$60.5 million.

While it is premature, even before The Regents have approved the Task Force's recommendations, to put forward a funding plan with any degree of specificity, some general remarks are in order. The Task Force recognizes that implementing its recommendations will require a significant increase in funding for outreach and that, by itself, the University would have great difficulty in securing these resources. At the same time, however, the thrust of the approach proposed here is that partnerships are the key if we are to have any substantial impact on disadvantaged students and schools. Though the costs of the proposed approach may be much greater than the cost of the University's existing outreach programs, these costs can and should be borne by all of those who have a stake in a revitalized K-12 system.

As a starting point, the President of the University has made \$2 million in permanent funds available to the Outreach Task Force to serve as a catalyst for its work. In addition, the Legislature and the Governor have added \$1 million to the University's budget for the 1996-97 fiscal year (\$250,000 of which is provided for outreach in the Central Valley area) and have proposed at least another \$1 million, and perhaps as much as \$2 million, for the 1997-98 fiscal year (again, with at least \$250,000 of that amount directed to the Central Valley). Assuming the latter resources are, in fact, allocated, the University will have \$3.5 million to \$4.5 million per year for allocation.

It is vital that this initial funding be leveraged to the maximum possible extent in seeking the additional resources necessary to support the proposed plan. Once the Task Force plan is reviewed and finalized, a large-scale fundraising effort must get underway. This campaign should coordinate requests from all major sectors, both public and private. Additional state funds will be sought to support University activities and at the same time funds to allow participating K-12 schools to match University money must also be acquired. Foundation and corporate support will also be sought, with primary responsibility for this effort focused in local communities where most substantial benefits of the plan will be realized.

Obviously, new funds currently available represent only minimal support for the first steps of this new

initiative. For the plan to be successful, it must be supported, not just by the University, but by parents and students, by all segments of education, by the business community, and by foundation sources. A significant improvement in the achievement levels of disadvantaged students is of incalculable value to the economic and social health of California. The Task Force invites all segments of the State to join with it in this broad renewal of educational purpose and commitment.

IX. SUMMARY OF RECOMMENDATIONS

Below are listed a summary of the Task Force's recommendations.

A. Recommended Overall Goals for University Outreach

- ☐ *Contribute to the academic enrichment of UC campuses through a diverse student body.*
- ☐ *Improve opportunities for disadvantaged students in California to achieve eligibility and to enroll at UC campuses.*

B. Proposed Plan: Recommended Strategies

1. School-Centered Partnerships

- ☐ *Establish and/or strengthen existing regional consortia.*
- ☐ *Develop partnerships with individual school systems.*
- ☐ *Assist in recruiting, preparing, and retaining teachers in partner schools.*
- ☐ *Work with other universities and with K-12 and community colleges to sponsor a major statewide conference on educational partnerships.*

2. Academic Development Programs

- ☐ *Design and enhance methodology for assessing program effectiveness.*
- ☐ *Expand academic development programs that meet "best practices" criteria to additional middle and high schools, as well as selected primary schools and California community colleges.*
- ☐ *Extend academic development programs to graduate/professional outreach.*
- ☐ *Promote other innovative academic development initiatives, such as "Business MESA," High School Puente, charter schools, and electronic delivery of "a-f" honors courses to students in underserved areas.*

3. Informational Outreach

- ☐ *Expand informational outreach to students, families, counselors, and teachers.*
- ☐ *Enhance existing recruitment efforts.*

C. Numerical Outcomes

The Task Force recommends that:

- ☐ *each UC campus work to increase the number of UC-eligible graduates from partner high schools by 100% -- or the UC-eligibility rate in these schools by 4 percentage points, whichever is greater -- between 1997 and 2002.*
- ☐ *each UC campus seek to increase the number of competitively eligible students (i.e., students eligible for admission at the most selective UC campuses) from partner schools by 50% -- or increase the competitive eligibility rate in these schools by 2 percentage points, whichever is greater -- between 1997 and 2002.*
- ☐ *statewide UC academic development programs work to increase the number of UC-eligible program graduates from disadvantaged backgrounds by 100% between 1997 and 2002.*
- ☐ *statewide UC academic development programs seek to increase the number of competitively eligible program graduates from disadvantaged backgrounds by 50% between 1997 and 2002.*
- ☐ *each UC campus strive to increase the number of outreach contacts with elementary, middle school, high school and community college students and families from disadvantaged backgrounds by 200% between 1997 and 2002.*
- ☐ *each UC campus establish ongoing systems to assess the qualitative effectiveness of information outreach programs by January 1, 1998.*

D. Responsibility and Evaluation**The Task Force recommends that:**

- ☐ *the President of the University, the Chancellors, and the leadership of the Divisional Academic Senates be responsible for the attainment of outcomes, in partnership with regional K-12 and postsecondary partners.*
- ☐ *outcomes for Statewide academic development programs be the responsibility of the program directors.*
- ☐ *the Office of the President be responsible for: a) seeking and obtaining public resources so that campuses can support the basic infrastructure for regional outreach efforts; and b) establishing and overseeing a systemwide evaluation mechanism to assess progress toward outreach goals and outcomes.*
- ☐ *the University establish a new multi-campus research activity whose mission would include, but not be limited to, evaluation of UC outreach efforts on a statewide basis.*

E. Resources**The Task Force recommends that:**

- ☐ *additional funding required to implement the expanded outreach programs proposed here, estimated at \$60.5 million annually, can and should be provided by all of those who have a stake in a revitalized K-12 system, including not only the University, but K-12, state and federal*

government, and the private sector, and the University should mount an aggressive fund-raising effort for this purpose.

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FOOTNOTES

1. See Appendix A for the full text of SP-1.
2. SP-1, Section 1.
3. See Appendix B for a roster of Task Force members.
4. See Appendix C for a description of specific Task Force activities.
5. See Appendix D for a list of briefings and presentations given before the Task Force.
6. For purposes of this report, the term "Latino" is used to refer collectively to Chicanos, Mexican Americans, Puerto Ricans, and all other students of Hispanic origin.
7. See Appendix E for a description of these and other outreach programs and activities.
8. Organic Act, Section 14, 1868 (cited in Centennial Record of the University of California, 1967, p. 381.)
9. See Assembly Concurrent Resolutions 150 & 151, California State Legislature, 1974.
10. Regents' Item, May 19, 1988.
11. For purposes of the following graphs, the term "Latino" is used to refer collectively to Chicanos, Mexican Americans, Puerto Ricans, and all others of Hispanic origin. Similarly for African Americans and Asian Americans, the shorter terms "Black" and "Asian" are used for purposes of brevity.
12. Figure 1 derived from data obtained via the 1990 CPEC eligibility study, which included transcript evaluations of 13,641 California public high school students.
13. See Appendix E for a description of these and other outreach programs and activities.
14. Currently over 80 percent of all community college students who transfer to the University are individuals who were ineligible to be admitted directly from high school. See Report on University of California Undergraduate Admissions and Enrollment (1996, June). Oakland: University of California, Office of the President.
15. See the American Association of Community College's AACC Annual, 1995-96: State-by-State Analysis of Community College Trends and Statistics (1995, August 22).
16. See Appendix E for a description of these community college outreach programs.
17. UC Regents Resolution SP-1, Section 1, July 12, 1995.
18. UC Regents Item SP-1, Section 9, July 12, 1995.
19. The SAT is just one of many measures of academic performance (see Figure 5) and does have flaws. However, it is the measure for which we have the most information available. As used in this report and in University admissions generally, SAT scores are employed as an indicator of students' preparation for college-level coursework. It is important to emphasize this point insofar as the SAT is sometimes viewed mistakenly as a measure of students' academic potential or even intellectual aptitude. As a standardized test, the SAT does not claim to measure students' inherent potential in this sense, but to measure the level of academic preparation students have actually achieved by the time they graduate from high school and apply to college. The SAT is the most widespread tool available for assessing not only individual students' preparation for college, but also the performance of schools themselves. In the absence of national standards in education, the SAT comes closest to a national "yardstick" for comparing educational outcomes across different regions and school systems. Across the nation about 2 out of every 5 high school graduates take the SAT each year, and in California the proportion is closer to half, making the SAT by far the largest single database for comparing different regions and schools on measures of academic preparation. The SAT data are useful as a check against high school grade point averages (GPA), since grading

standards can vary widely from school to school.

20. Another indicator of minority concentration within the bottom tier of schools is the percentage of total minority enrollments in these schools: of all African American, American Indian, and Latino enrollments in California public high schools in 1995, 63% were enrolled in the bottom two quintiles of schools, and 81% were enrolled in the bottom three quintiles.
21. Database does not include information about high school or college completion rates of mothers.
22. John Henry Newman, *The Idea of a University* (1852/1960). Notre Dame, Indiana: University of Notre Dame Press, p. 110.
23. Organic Act, Section 14, 1868 (cited in *Centennial Record of the University of California*, 1967, p. 381.)
24. CPEC Report, 1996, p. 48.
25. Appendix F presents the Executive Summary from the PACE Report.
26. PACE Report (G. C. Hayward, et. al.), 1996, p. 30.
27. PACE report, 1996, p. 31-32.
28. For a portion of its deliberations, the Task Force conducted its work in five subcommittees. Appendix G presents each subcommittee's charge and membership.
29. The subcommittee(s) for which the recommendation was a particular focus of discussion is noted in brackets.
30. The University's Urban Community-School Collaborative provides an effective model for how these relationships can be fostered. See Appendix E.
31. See *Shaping the Profession that Shapes California's Future: The California Statewide Teacher Recruitment Action Plan* (California State Department of Education, 1996) and *Where Have All the Teachers Gone?* (M. Feller, December 29, 1996).
32. See *Education Watch: The 1996 Education Trust State and National Data Book* (1996). Washington DC: The Education Trust.
33. See Appendix E for a description of Project ASSIST, Gateways, Nexus, and Pathways.
34. Appendix E provides a description of the Nexus and Gateway programs.
35. See Appendix E for a description of these and other outreach programs and activities.

Status of Education Budget and Race Initiatives
November 17, 1997

1. Education Zones

- o ED agrees to challenge grants program focusing on standards-based reform with requirements that districts: (1) end social promotion; (2) have process for removing incompetent teachers; and, (3) turning around failing schools. Continued funding is dependent upon measurable progress toward meeting standards. Idea is to create balanced system of incentives that operate on students, teachers and schools.
- o In exchange for implementing accountability system, districts get discretionary funds (approximately \$10-\$20 million per year) that can be used for a variety of purposes. Most likely uses include: (1) design and implementation of accountability system; (2) extra help to students and schools, such as after-school or summer school programs, technical assistance or training for low performing schools;
- o OMB (Barry White) comfortable with basic direction.
- o Funds targeted to urban and rural districts with high concentrations of poverty; set-aside for Tribal schools and schools with concentrations of Native American students still to be worked out.
- o Still need to clarify (1) requirements for showing that other federal education funds -- as well as local and state funds -- are being used in a systemic fashion to support overall approach; (2) mechanism for removing obstacles to effective use of other federal education funds and/or for providing districts with maximum flexibility in use of other federal education funds; (3) conceptual and operational relationship between this and other new urban/rural-focused initiatives, including College/School partnerships and choice proposal.
- o Must determine if there is existing Title 1 urban/rural authority under which this program can be operated, rather than submitting new legislation.
- o Revisions to ED proposal, and 2-page overview, being made.

*Linkage to Title
I r cont.*

2. Parental Choice

- o **Option 1: District Wide Choice:** Challenge grants to local districts to create system-wide choice, in which every parent can send kid to school of their choice. This would

mean an end to the presumption that kids attend the neighborhood school and that only a few kids choose to go to other, specialized schools; it suggests instead that each school would become specialized or distinctive in some fashion and would try to attract kids from beyond traditional attendance zone. Funds used to design and implement choice program, with special attention given to creating effective and meaningful information system so parents can make informed choiced among schools.

- o **Option 2: Challenge grants to local districts to provide students in consistently lowest (5%-20%) performing schools with choice of moving to any public school in the district. All federal, state and local funds follow student, and grant funds provide additional (\$500-\$1,500) to follow student to receiving school.**
- o **Option 3: Combine 1 and 2 above.**
- o **Option 4: Combine with Education Zones above.**

3. School/College Partnerships

- o NEC/DCP ED meeting to be held this week, and NEC memo to be updated
- o New component to be added for Tribal schools and schools with large concentrations of Native American students.
- o To be determined: How will this initiative be coordinated with Education Zones initiative, since both initiatives target similar communities?

4. Class Size Initiative

- o Lowering Class Size to 15 from current average of 24 would require an addition 365,000 teachers for grades K-3.
- o Cost of additional teachers per year ranges from \$5.5 Billion to \$17.3 Billion, depending upon level of cost-sharing (0-50%); whether fringe benefits built into salary calculation; and whether use average or beginning teacher salary.
- o Ways of reducing costs:
 - o fewer grade levels
 - o higher class size target (e.g., 17-20, rather than 15)
 - o limit to education zones

5. Technology/"Learning on Demand" Initiatives

- o NEC-led
- o Drafts of components on: (1) challenge grants for "Learning

on Demand" partnerships such as WGU, including software development building partnerships and infrastructure, developing learning standards, etc.; (2) K-12 teacher training initiative

- o Need meeting with Kalil

6. Native American Initiatives:

- o School Construction: Working on proposal to significantly increase funding in BIA program if we can also figure out way to get funds out far more quickly and efficiently. (Tanya)
- o Raising Standards and Achievement: Set-aside in Education Zone proposal
- o High School Completion and Postsecondary Enrollment: Set-aside in College/School Partnership proposal [design work needed]
- o Early childhood initiative: Talk to Jennifer Klein
- o Improved data on condition of Indian Education and on What Works.
- o Other issues: Funding for ED Indian Education Program in ED; look at overall per-pupil expenditures in BIA schools; need review of proposed Executive Order

7. Race Initiative: Minority Enrollment

- o ED working on report on value of diversity in higher education; no completion date set yet -- need to figure out likely release date/strategy to set deadline. Later the deadline, the greater the chance to include new data rather than rehash what is out there.
- o Need to review OCR guidance on taking race into account in admissions
- o ED collecting examples of effective recruitment/outreach initiatives that expand pipeline of qualified minorities. We need to decide if we want a report on this separate from announcement of Partnership initiative, and timing of such announcement.

8. Race Initiative: California Bilingual Initiative

- o Short term position is to stay out of this and take no position
- o Next step: Maria is arranging a series of outreach meetings with key California and national stakeholders -- quiet

consultations to seek advice.

- o Aim to prepare detailed briefing memo to POTUS early in 1998.

9. Other: Single Sex Schools

- o Chuck Ruff meeting with ED/Justice and DPC
- o New discussions with NYC leading to joint effort to learn from single sex experiment
- o Note from Kevin: Boys do worse than girls in this district; hurts any remedial type argument. Together with VMI/Citadel position, we look like we have no justification.

10. National Tests

- o NAGB event--convince press and public that we are moving forward; ED to work out transfer of contract to NAGB and sort out other development-related issues
- o reassurances to and consultations with states and districts
- o keep on top of Romer and ACHIEVE
- o DEVELOP LEGISLATIVE STRATEGY FOR NAEP/NAGB REAUTHORIZATION

Communications Strategy on Diversity in Higher Education
ROUGH DRAFT--November 12, 1997

Option 1

<u>Timeframe</u>	<u>Action</u>
Nov. 19	Race Panel meeting -- highlight importance of diversity in higher education and programs that foster diversity
Dec. 3	Race Town Hall -- make comments about importance of diversity
Dec. 8-12	POTUS meet higher ed leaders and release ED reports on importance of diversity in higher education and outreach and recruitment programs
Dec. 15-19	High profile ED release of OCR/DOJ guidance on affirmative action programs
Jan. 27	Announce new mentoring/partnerships initiative in State of the Union
Rationale:	Assumes reports will take at least 2-3 weeks to complete. Also assumes that Administration should address the need for diversity and other pipeline programs before Affirmative Action guidance is formally released (though perhaps could issue in draft form earlier so campuses can begin using).

Option 2

<u>Timeframe</u>	<u>Action</u>
Nov. 19	Race Panel meeting -- highlight importance of diversity in higher education and programs that foster diversity
Nov. 24-26	POTUS meet higher ed leaders on importance of diversity; ACE can present with statement
Dec. 3	Race Town Hall -- make comments about importance of diversity -- refer back to meeting with higher ed leaders
Dec. 8-12	POTUS speech on importance of diversity; release ED reports on importance of diversity in higher education and outreach and recruitment programs
Dec. 15-19	High Profile ED release of OCR/DOJ guidance on affirmative action programs
Jan. 27	Announce new mentoring/partnerships initiative in State of the Union
Rationale:	Even though reports will not probably not be ready prior to December, we should

go ahead and begin building off the race panel's Nov. 19 meeting by meeting with the higher ed. leaders in late November. This option gives us a more constant build-up over the next six weeks, but involves a lot of POTUS time.

Option 3

<u>Timeframe</u>	<u>Action</u>
Nov. 19	Race Panel meeting -- highlight importance of diversity in higher education and programs that foster diversity
Dec. 3	Race Town Hall -- make comments about importance of diversity
Dec. 8-12	POTUS meet higher ed leaders and release ED reports on importance of diversity in higher education
Dec. 15-19	Low profile ED release of OCR/DOJ guidance on affirmative action programs
Jan. 19 -23	POTUS speech and release ED report on outreach and recruitment programs
Jan. 27	Announce new mentoring/partnerships initiative in State of the Union
Rationale:	This approach uses ED report on recruitment and outreach programs more as a run-up to State of the Union. Because POTUS will not have addressed non-Affirmative Action approaches before the end of December, this option lets ED go ahead and release guidance in a low-key way (as draft, etc.).

October 7, 1997

MEMORANDUM FOR ELENA KAGAN

From: Mike Cohen
Bill Kincaid

Subject: Strategy for Maintaining and Expanding Diversity in Higher Education

Over the past 24 hours we have consulted with Department of Education and NEC staff, and have reached out to the higher education community, to determine what additional steps (beyond the proposed mentoring and partnerships initiative) the Administration should take to maintain and expand diversity in the nation's postsecondary institutions. In the course of these consultations we have identified additional persons with whom further discussions would be valuable, and who could help us further shape and refine this strategy. For now, here is our thinking:

I. Make the case for diversity.

- Particularly in the context of higher education, the President should speak even more frequently and with greater focus than he does now on the importance of diversity. We should consider devoting a town hall to this topic. Pushing this message will greatly help higher education institutions sustain their individual efforts.
- Ask the Department of Education to assemble data to more convincingly make the case for the educational value of diversity. The higher ed community remains firmly committed to the importance of diversity, but they could use help bolstering gut instincts with research.
- ACE is organizing an effort to get the entire higher education community to sign on to a joint statement on the importance of diversity. A Presidential announcement of such a statement could make a strong event.

II. Identify and highlight effective outreach and recruitment efforts.

- Clearly there are some good examples of outreach and recruitment efforts that are working in specific circumstances. We should identify and highlight these examples in speeches and other forums.
- The Department of Education should be tasked with working with the higher education community to determine what publications, guidebooks, or meetings (beyond already-scheduled higher education group meetings) could be helpful in this regard.
- The President could invite college presidents, deans and others to the White House to discuss successful initiatives.

III. Keep the focus off admissions policies per se.

- Many postsecondary institutions (other than those in the 5th Circuit, or in California, which face different constraints) are quietly reviewing their affirmative action policies to ensure that they pass muster under Bakke. Our sense is that they can best accomplish this without high profile attention at the Federal level.



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RACE IN MODERN AMERICA

STEPHAN THERNSTROM & ABIGAIL THERNSTROM



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CHAPTER FOURTEEN

The Higher Learning

IN 1995, STANFORD University's new president, Gerhard Casper, announced a number of measures to raise academic standards, including a reinstatement of the grades of D and F and an end to the privilege of dropping courses on the eve of the final exam without paying an academic penalty. But President Casper's effort to control grade inflation and to encourage students in other ways to take seriously the courses in which they were enrolled was apparently viewed by many black students as a direct attack on them. Or at least so the *Journal of Blacks in Higher Education* reported.¹

It was, alas, a believable report. Stanford had for some time been a sea of racial troubles. The school had certainly tried to make blacks feel welcome. Indeed, it had gone to extraordinary lengths to do so. But the effort itself became part of a cluster of problems, of which the protest directed at President Casper was but one sign. The university not only instituted an aggressive affirmative action admissions policy; it trained students in racial sensitivity, created dorms with an ethnic "theme," and drastically altered the curriculum to meet minority demands. The result was more minorities on campus; a curriculum that included courses on such subjects as black hair; frustrated, bewildered white students; and blacks who felt more alienated, more culturally black, and perhaps more hostile to whites than when they arrived.

The university had wanted to make minority students feel at home. But with the dramatic increase in minority numbers and with the creation of ethnic theme houses, the level of minority student discomfort actually rose. With more minority students in this environment came more interracial tension—especially tension between whites and blacks. When blacks first demanded their own dorms, they hoped to live entirely separate from white Stanford. The college insisted, however, on a quota of 50 percent white. As it turned out, it wasn't quite the "comfortable" arrangement that the university wanted.

A widely reported incident in September 1988 made that abundantly clear.

In the wake of an argument over black lineage, two intoxicated white students defaced a Beethoven poster in such a way as to make the composer look black. The action took place in Ujamaa, the African-American residential house, and subsequently provoked a number of racially ugly meetings and a flyer on which the word "niggers" was scrawled by unknown actors. The scrawl was unfairly attributed to the students who had altered the Beethoven drawing, and thus they quickly became victims themselves—blamed for acts they didn't commit. Antiwhite leaflets began to appear, most of them urging an all-black dorm, and pins were jammed into the photographed faces of white students on a picture board.

How could the situation have become so ugly so quickly? Stanford had almost no students who did not think of themselves as liberals. Only 15 percent of seniors surveyed identified themselves as even somewhat conservative. These were students, then, painfully self-conscious about having enlightened racial attitudes. But the Stanford campus—like so many others—was a racial tinder box, ready to explode. In the 1960s few had doubted that more interracial contact would bring understanding and friendship: a family of man. Less than three decades later, things looked a lot more complicated.

As a series of interviews conducted in 1988 and 1989 by John H. Bunzel, a political scientist at the Hoover Institution, made clear, by then blacks and whites were not even talking the same language.² Most important, they couldn't agree on the meaning of racism. White students talked of prejudice, stereotyping, and overtly racist acts, and believed evidence of such personal hostility was exceedingly hard to find. Black students, on the other hand, viewed racism as something akin to a pervasive vapor—invisible but lethal. Only 30 percent of blacks in a student survey reported direct experience with prejudice, and the majority of those described that experience as "subtle" and "hard to explain." Nevertheless, "covert," "elusive" discrimination deeply affected their daily life, they said. Racism, as they described it, was institutional or structural. The greater "power" (undefined) of whites had racist consequences: too many white tenured faculty and too few black students had been receiving academic honors, for instance.

Almost half the blacks Bunzel interviewed said their views on racism had hardened while they were students at the university. Not suprisingly, whites (as one of the seniors interviewed put it) found it "hard to know how to react to charges of racism when there [were] no specific incidents or examples." In fact, their experience at Stanford made white students more skeptical of black charges of racism and less likely to reach out. It was not rhetoric alone that alienated white students. Whites were bewildered and angered by black separatism. In the interviews black students were quick to say they kept largely to themselves, celebrating their distinctiveness. Blacks were expected, they reported, to talk black, dress black, think black, and certainly date black. In so doing, they did create safe psychological havens, but whites experienced

such separatism as hostile. What had they done to provoke or deserve the enmity? they asked.

Relations between the races had thus become, in Bunzel's words, "reserved, and circumspect, restrained by apathy, fears, and a certain amount of peer pressure." In a senior survey 70 percent of the students agreed that racial tension had increased in the years they had been on campus. And thus, thirty-two years after the first lunch counter sit-ins, privileged blacks on the most enlightened of college campuses were insisting on eating apart. At Stanford and other institutions of higher education, the integrationist dream of Martin Luther King, Jr., had been shattered.

What a mess. How did it come about? Does a greater black presence on campus inevitably mean greater racial tension? Of course not. Not if black students arrive as equals and are treated as such. At Stanford neither was true. As of 1994, black undergraduates were entering Stanford with an average combined SAT score of 1,164—a very good score by national standards, putting them in the top sixth of all test-takers in the country. But their white classmates had been admitted with a 1,335 average, placing them in the top 3 percent of all students nationally.³ As Shelby Steele has argued, black students pay a heavy price for their letters of acceptance on the basis of lower academic standards. To begin with, the affirmative action programs call attention to racial differences—they heighten racial consciousness. And then, too, they reinforce that myth of black inferiority upon which we touched in the last chapter. Almost all students start competitive colleges like Stanford feeling insecure, but for African-American students "the anxiety is not only personal but racial."⁴ Hence the reaction when President Casper raised academic expectations—the sense of insecurity instantly revealed.

High anxiety—the deep-seated fear that black inferiority may not be, after all, a myth—is just one source of what Steele has called a campus "politics of difference," in which groups assert rights and vie for power based on their racial identity. The charge of (invisible) white racism becomes the solution to the pain of self-doubt, and that charge not only transfers the problem to others but legitimizes a politics of 1960s-style racial protest. Add to the mix the ideology of black power (which sanctions demands made on the basis of color) and college administrators who make a virtue of appeasement and reward those demands, and the result is precisely that resegregation of campus life so clearly and appallingly on display at Stanford—but certainly not confined to that school.

Without an admissions system involving racial preferences, the picture would be quite different.

THE SURGE IN COLLEGE ENROLLMENTS

In 1960, the year that black students at North Carolina Agricultural and Technical College sat down at the Woolworth's lunch counter in Greensboro and insisted upon their right to be served a cup of coffee, fewer than 150,000 African Americans were enrolled in colleges or universities in the United States, just 4 percent of the total student body (Table 1). There are almost ten times that many black college students today.

Blacks were even less visible on the typical campus, and even further behind in the educational competition, than the 4 percent figure would suggest. Most of the black student population—two-thirds of it, in fact—was concentrated in segregated southern colleges like North Carolina A&T. The education these schools offered, with few exceptions, was distinctly inferior to that provided in the typical predominantly white institution of the day. In their penetrating 1968 survey of American higher education, *The Academic*

Table 1
Black Enrollments in College, 1960–1994

	Percent of Enrollments		
	Number (in thousands)	Total	In other than black colleges
1960	146	4.1	1.8
1970	522	7.0	4.2
1980	1,007	9.9	8.2
1994	1,317	10.7	9.0

Sources: Enrollment data for 1960 from Sar A. Levitan, William B. Johnston, and Robert Taggart, *Still a Dream: The Changing Status of Blacks Since 1960* (Cambridge: Harvard University Press, 1975), 84; 1970–1980 figures from U.S. Bureau of the Census, Current Population Reports, P-20-479, *School Enrollment-Social and Economic Characteristics of Students: October 1993* (Washington, D.C.: U.S. Government Printing Office, 1994), tables A-1, A-5, and A-6; 1994 data from American Council on Education, *Minorities in Higher Education, 1995–96: Fourteenth Annual Status Report* (Washington, D.C.: 1996), tables 1 and 5. Figures on the proportion of black students on campuses other than those of the historically black colleges include graduate students, since they are not separated out in the data on attendance at historically black colleges. Estimated from data in Frank Bowles and Frank A. DeCosta, *Between Two Worlds: A Profile of Negro Higher Education* (New York: McGraw-Hill, 1971), 199; Sar A. Levitan, William B. Johnston, and Robert Taggart, *Still a Dream: The Changing Status of Blacks Since 1960* (Cambridge: Harvard University Press, 1975), 84, 102; National Center for Education Statistics, *Historically Black Colleges and Universities, 1976–1990*, NCEs 92-640 (Washington, D.C.: U.S. Government Printing Office, 1992), table 5; National Center for Education Statistics, *Digest of Educational Statistics, 1995* (Washington, D.C.: U.S. Government Printing Office, 1995), 208, 225. Nineteen ninety-four figures are for the 1993–1994 academic year.

Revolution, Christopher Jencks and David Riesman concluded that the approximately one hundred historically black colleges ranked "near the end of the academic procession in terms of student aptitudes, faculty competence, and intellectual ferment." The typical freshman at such schools, judging from average SAT scores, was "semiliterate" and performed at about the ninth-grade level.⁵ Well into the 1960s such Jim Crow colleges were the only option available in most southern states to black students who wanted a higher education, unless they had the money to go to school in the North and the confidence that they could survive the competition despite having attended segregated elementary and secondary schools. Significant numbers of African Americans from the North attended one of the historically black colleges as well.

In 1960 only about 50,000 black students attended predominantly white colleges and universities in the North, accounting for less than 2 percent of enrollments. The more prestigious, selective, and expensive the school, the smaller the proportion of African-American students there. Very few were to be found in Ivy League schools or similar institutions with intensely competitive admissions. They were less often enrolled in the flagship campuses of the state university system, more often found in the state colleges than the state university campuses, and still more often in community colleges and junior colleges.⁶

As the civil rights movement reached a climax and the issue of race moved to center stage in the 1960s, black college enrollments took off like a rocket. The economy was booming, higher education was expanding to accommodate the children of the Baby Boom, the incomes of black families were rising, and it was widely believed that increased education was the route to racial equality. In addition, institutions of higher learning actively sought to increase their black enrollments. The number of blacks in college more than tripled over the decade, and then doubled in the 1970s. College attendance rates for all groups were rising, but they were rising far more rapidly for blacks than for others: the black share of total enrollments jumped from 4 percent to almost 10 percent between 1960 and 1980. What is more, the share of the African-American college population attending the historically black colleges plunged, dropping from two-thirds in 1960 to about half in 1968, and just 17 percent by 1980, where it remains today.⁷ The proportion of African-American students enrolled in predominantly white schools quadrupled between 1960 and 1980, rising from 1.8 percent to 7.7 percent. These are striking gains to have been achieved in a relatively brief span of years.

Since 1980 blacks have made further impressive gains in higher education. The number attending college has risen by another 30 percent, lifting the black share of the total by almost a full percentage point.⁸ The most illuminating figures to consider in assessing the changing landscape are presented in Table 2. Here we see rates both of college attendance and of college comple-

Table 2
College Attendance and Completion Rates for Persons
25-29 Years of Age, by Race, 1965-1995

	BLACK	WHITE	B/W RATIO	BLACK	WHITE	B/W RATIO
	<i>Percent who had attended college</i>			<i>Percent who had completed 4 or more years</i>		
1965	15.2	26.2	58	6.8	13.0	52
1970	17.2	32.8	52	7.3	17.3	42
1975	27.6	42.8	64	10.7	22.8	47
1980	32.8	46.2	71	11.7	23.7	49
1985	34.4	44.5	77	11.5	23.2	50
1990	36.0	45.3	79	13.4	24.2	55
1995	44.9	55.4	81	15.3	26.0	59

Source: U.S. Department of Education, *Youth Indicators 1996: Trends in the Well-Being of American Youth*, NCES 96-027 (Washington, D.C.: U.S. Government Printing Office, 1996), 70.

tion for young people (aged 25 to 29) at six different points over the past three decades.

As the table makes evident, in each successive cohort between 1965 and 1995, the fraction of blacks who have been to college has risen. Advances were more rapid at some times than at others, but the gains of the first half of the 1970s were nearly matched by those in the first half of the 1990s. Over these three decades, the African-American rate of college attendance has jumped 195 percent, while the rate for whites has risen only 114 percent. Three decades ago blacks were only about half as likely as whites to attend college; in 1995 it was just over 80 percent of the white rate.

THE LAG IN GRADUATION RATES

That's the good news. The racial gap in rates of college attendance has declined very sharply over the past three decades. The bad news is that the striking increase in the number of African Americans enrolled in higher education has not produced an equally noteworthy gain in the number who have completed college and obtained their degrees.⁹ The problem of black youths dropping out of high school has been pretty much solved; high school graduation has become virtually universal in the United States, and the racial difference has disappeared. The real dropout problem for African Americans is at the college level. Although almost half (45 percent) of African Americans in the twenty-five-to-twenty-nine age bracket today have been

enrolled in college, barely one out of seven holds a bachelor's degree. The drop-off here—45 percent at the starting gate but only 15 percent reaching the finishing line—is disturbing. In 1965, blacks were only about half as likely as whites to go to college, and those who did go were only about half as likely to graduate. In 1995, African Americans were only about 20 percent less likely to attend college, but those who did go were still not much more than half as likely to graduate.

Of course not everyone who enters college needs to stick it out for four years to derive some benefit. But when greatly disproportionate numbers of one group fall by the wayside long before commencement, we need to ask why. Finishing college is important. In 1995 men who had some college but not a degree had median incomes that were just one-fifth higher than those who were only high school graduates; for women the advantage was 29 percent. Males with a bachelor's degree, though, had incomes 82 percent above those of high school graduates and 55 percent above those who had attended college but dropped out. A college diploma paid off even more for women: the incomes of graduates were 220 percent of those with only a high school education, and 170 percent of those with some college but no degree.¹⁰ Furthermore, a college diploma is a necessary passport for entry into graduate school, with its promise of even greater returns.¹¹

After reviewing the graduation rates of black students at some three hundred major colleges and universities, the *Journal of Blacks in Higher Education* declared in 1994 that the black college dropout rate was nothing short of "disastrous." Among the full-time students who enrolled in degree programs as freshmen between 1984 and 1987, 57 percent of whites earned a degree within six years, and 43 percent dropped out.¹² Only 34 percent of African Americans, by contrast, completed a degree; 66 percent dropped out. The black dropout rate exceeded the white rate by more than 50 percent. More recent evidence, for freshmen who began college in the 1989–1990 academic year, shows only a slight improvement. The black six-year graduation rate had risen to 40 percent as compared with 59 percent for whites.¹³ That left the black dropout rate at 60 percent, almost 50 percent higher than the 41 percent dropout rate for whites.

Why have large numbers of black students been able to make it *to* college but not to make it *through* college? It is natural to look for an economic explanation. Black students are less likely to come from affluent households than are their white classmates, and thus they receive less financial help from home. Indeed, their families may turn to them for aid in hard times, forcing some to abandon school and take a job. But while economic status does have a lot to do with who goes to college and who completes college, it doesn't help much with the problem at hand. A high proportion of these students come from the greatly expanded black middle class. In addition, over the last three decades financial aid programs have greatly expanded. The Economic Opportunity Act of 1964 channeled federal funds to needy college students

through the work-study program. The Higher Education Acts of 1965 and 1972 vastly increased the federal commitment to aiding college students and institutions by providing both direct grants and federally guaranteed student loans. By 1995 the federal government was spending over \$18 billion a year to subsidize college students, and most states were also devoting sizable sums to grants and loans for students in higher education, on top of the subsidy involved in operating state university systems.¹⁴ Coming from homes with lower average incomes, black students were more often the recipients of such aid. According to the most recent figures available, 54 percent of black undergraduates were receiving some form of financial aid, as compared with 39 percent of whites. Almost four out of ten African Americans had federal grants to defray college costs, double the proportion among whites.¹⁵

In the coming pages we offer an alternative explanation for the low graduation rates for black college students. Affirmative action admissions policies, we will suggest, did work to increase enrollments, but if the larger aim was to increase the number of African Americans who would successfully complete college, preferential policies had disappointing, even counterproductive, results.

DOUBLE STANDARDS IN ADMISSIONS

It is not surprising that few black students were enrolled in the most selective institutions of higher education in the early 1960s. Most of them did not have families who could afford to pay the bill, and, as a consequence of the inferior schooling they had received, very few had the academic preparation to qualify for admission. James Coleman's monumental 1966 survey demonstrated that even in the North, black twelfth-graders were more than three years behind their white peers in reading comprehension, on the average, and about five years behind in math. Southern blacks (from Jim Crow schools) lagged even further behind.¹⁶ The first NAEP tests a few years later disclosed similarly glaring racial gaps.

The small numbers of black students to be found on white campuses, especially elite white campuses, suddenly became an issue when the civil rights revolution erupted in the national consciousness. The civil rights cause had broader and deeper support in higher education than in any other American institution, and the question of what those who lived in the ivory tower could do for the cause of racial justice seemed increasingly urgent. Enrolling many more African-American students was the obvious step. A college education would open doors to large numbers of young people whose prospects had been blighted by racism. It would mean better-educated leaders in the black community in the next generation, and would prepare white students for life in a society that would be more diverse culturally.

In time, institutions of higher education would search for both more black

students and more black faculty and administrators. But the two stories are quite separate. The commitment to hiring more blacks to fill teaching and other positions was due in great part to federal pressure. In the early 1970s, grants to twenty leading universities that amounted to more than \$28 million were held up because these schools had not filed with the federal government satisfactory plans to obtain more African-American employees, as they were obligated to do under an executive order.¹⁷ The obligatory affirmative action plans had met with resistance; academic departments generally believed in appointing scholars and teachers on the basis of their academic merit—conventionally defined. The large-scale affirmative action programs governing student admissions and financial aid, however, were freely adopted as the right thing to do.

"Affirmative action" in the selection of students initially meant greater outreach, making a bigger effort to seek out talent in places that the recruiters had never visited before. For example, admissions officers from elite schools began to visit predominantly black inner-city high schools and to solicit applications from the top students there. This was commendable, but the unfortunate fact was that, given the poor education most black students had received, the most imaginative and intensive searches turned up very few diamonds in the rough. It soon became apparent that the most highly selective and competitive schools could not enroll a significant concentration of African-American students without admitting most of them under a different and lower academic standard.

Race thus became a qualification for admission, and a very important one. Letters of acceptance and scholarship offers went to students whose applications would have been turned down in a flash had their skins been white. There was a certain irony here. Until the mid-1960s, liberals had demanded that colleges remove questions about race on their application forms, and cease to require photographs of applicants. To eliminate racial discrimination, they believed, the admissions process should be made strictly color-blind. Massachusetts actually passed a law forbidding race questions on college applications in 1949.¹⁸ When the focus of liberal concern shifted from preventing discrimination to overcoming the effects of past discrimination, and the idea of color-blind solutions was abandoned in favor of preferential treatment for the victims of historic discrimination, the law was ignored.

Fred Abernathy, who finished high school in the spring of 1995, was a beneficiary of that shift, and his is a familiar story. Abernathy got 19 on the ACT—a score that put him in the bottom half of all test-takers. Nevertheless, he was flooded with college invitations, including one from the College of Engineering at the University of Illinois, where he chose to go. The school is highly selective; most white students were scoring in the 98th or 99th percentile. They came, in other words, well prepared to meet tough academic standards, and that meant that close to 90 percent were graduating. The black

record, on the other hand, was quite different: almost half the black students were leaving.¹⁹

To give someone a coveted place in the freshman class at a competitive university is not like handing the recipient a winning ticket in the state lottery. The curriculum at elite institutions assumes that students arrive with highly developed academic skills—that they are capable of reading and assimilating a great many pages of complicated material each week, writing essays that are coherent and grammatical, and grasping problems expressed in mathematical language. President Johnson's rationale for affirmative action in his 1965 Howard University speech, let us recall, was that it was unfair to take someone who has long been "hobbled by chains" and put him at the starting line in a race and say "you are free to compete with all the others."²⁰ And yet affirmative action in admission to elite colleges amounted to precisely that. It put ill-prepared African-American students at the starting line and told them that they were free to compete with students who entered with calculus, several Advanced Placement credits and combined College Board scores often above 1400.

With the aid of wishful thinking about the irrelevance of scores on standardized tests, well-meaning educators glossed over the difficulty. A classic example was a 1967 report of a committee of the Southern Regional Education Board. The committee asserted that "there is considerable evidence that the scores do not accurately reflect the potential of disadvantaged youths for college training," but did not specify what "evidence" it had in mind.²¹ It warned that recruiting "exceptionally talented Negro students" who met regular admissions standards was not nearly enough. Institutions also had an "obligation to participate in the education of students whose disadvantage ha[d] been more severe." Although the committee referred to "exceptionally talented" students, it was unwilling to speak of any as less talented or not very talented at all. The least adept were merely those whose "disadvantage" had been "more severe," which seemed to suggest that the more dismal a student's academic record was, the more the student deserved admission to college. All colleges and universities therefore had a moral duty to "adopt 'high risk' quotas which commit them to admitting disadvantaged students" who were "not ready for college work and [to] place them in compensatory or remedial programs."

However benevolent the motives of such progressive thinkers, their muddled thinking has had unfortunate consequences, as we saw with the University of Illinois example. The risk in taking in a "high risk" student like Fred Abernathy is that of academic failure. When it does not work out, the loser is not the institution but the individual student, who suffers a crushing, humiliating personal defeat that may have lasting results. That should be of special concern when the student (who might be fine at a less competitive school) has already been scarred by encounters with racial prejudice. The proponents

of affirmative action at elite schools gave little thought to the problem of those who might fall by the wayside. But, if their high-risk students did not make it, the schools had little to lose and much to gain—namely, applause for their benevolence. No one could say that they hadn't made special efforts to do their bit for the cause of racial justice.

The real difficulties involved in dealing with students who did not meet traditional standards was evaded with rhetoric about the "remedial" and "compensatory" efforts that institutions would supposedly make to close the gap. But remediation was easy to talk about and hard to accomplish. Twelve years of dismal education take a heavy toll. Schools did not know how to take a group of eighteen-year-olds whose reading, writing, math, and science skills were four or five grade levels below those of their average student and bring them up to par in a semester or two—or even a year or two. Such remediation was certainly not a job that the typical professor at an elite school had any talent for. The more distinguished the university, the less adept its faculty was likely to be at this task. Thomas Sowell, the most penetrating critic of affirmative action in higher education, has noted the illogic of the core idea of putting black students into fast-paced colleges for which they were so ill prepared that they required special slower-paced courses.²²

Filled with idealistic zeal and convinced that academic deficiencies that had developed over twelve years of schooling could be quickly overcome by instructors whose hearts were in the right place, the nation's colleges and universities rushed to adopt preferential admissions policies. Such measures were assumed to be temporary, a way of giving a jump start to the process of social change. No one anticipated that these efforts would harden into a regime of racial preferences that would last into the twenty-first century. But three decades later that seems to be what has happened. A 1993 survey of fifty-nine randomly selected colleges and universities found that every one of them claimed to have taken specific steps aimed at increasing minority enrollment. That could mean only a general interest in aggressive recruiting, but in fact, three out of four of these schools either aimed for a student body with a racial mix matching that of the population of the state or had other specific numerical goals for minority enrollment.²³

The pervasiveness of the affirmative action mentality was strikingly illustrated in a 1995 announcement by administrators at the University of New Hampshire, located in a conservative and practically all-white state with a minority population of only 2.6 percent (0.6 percent black). University officials complained that minorities were "only" 3.2 percent of its student body and "only" 5.8 percent of its faculty, and that something had to be done about this disturbing imbalance, even though minorities were overrepresented at the university in both categories relative to their numbers in the state.²⁴ The university committed itself to the goal of making both the student body and the faculty 7.5 percent minority by 2005. The plan provoked no criticism.

Even in New Hampshire the idea that society had a special duty to be sure that racial minorities were well represented—indeed overrepresented—in higher education was apparently so widely accepted that the proposal attracted no critical notice.

To grasp why affirmative action, originally a temporary expedient, is so firmly entrenched some three decades later, we need to look closely at evidence about the academic performance of African-American youths since the 1960s. The information from the National Assessment of Educational Progress (NAEP) analyzed in the previous chapter provided a useful starting point, but here we look more closely at the segment of the population that might be college material. The best data come from the most widely used instrument employed by admissions officers in selective colleges and universities—the SATs.

THE RACIAL GAP IN SAT SCORES

Each year the College Entrance Examination Board administers tests to approximately 1 million high school students who aspire to admission to one of the nation's more selective colleges or universities.²⁵ Unlike the NAEP tests, SATs are not administered to a random sample of the entire student population. Although some school systems require it, in most cases students elect to take it. Changes over time in the SAT scores of particular racial groups thus may not be evidence of changes in the academic skills of the group as a whole; the membership of the group taking the test differs from year to year.²⁶ Nevertheless, the SAT is a vital gatekeeper that strongly influences who is admitted to which college.

How well have black students performed on the SATs? Racial breakdowns of SAT scores are only available since 1976. In the two decades that have elapsed since then, the performance of African-American college-bound seniors has risen substantially, reflecting the progress also evident from the NAEP tests. The mean verbal scores of black youths rose 24 points between the mid-1970s and 1995, while white scores actually dropped a little—by 3 points (Table 3).²⁷ The racial gap thus narrowed by 27 points, a drop of about a quarter, a shift of the same magnitude as that displayed in the NEAP reading results. Progress in closing the racial gap, though, came to a halt in 1991. Since then white scores have actually risen a little more than those of blacks. The verbal SATs show only a tiny hint of the sharp regression evident in the NAEP results, but it is troubling that virtually all of the progress came in the late 1970s and early 1980s, and that something has gone awry since then.

The mathematics results look quite similar. Black scores rose by 34 points, while those of whites increased just 5 points. The gap shrank by 29 points, again about a quarter, and again a drop of approximately the magnitude as

Table 3
**Mean College Board Scores of College-Bound Seniors
 by Race, 1976-1995**

	VERBAL			MATHEMATICAL			Total gap
	Black	White	Gap	Black	White	Gap	
1976	332	451	119	354	493	139	258
1981	332	442	110	362	483	121	231
1984	342	445	103	373	487	114	217
1987	351	447	96	377	489	112	208
1991	351	441	90	385	489	104	194
1995	356	448	92	388	498	110	202

Source: National Center for Education Statistics, *The Condition of Education, 1996* (Washington, D.C.: U.S. Department of Education, 1996), 240.

that found in the NAEP results. But the SAT math scores show more than a hint of the regression revealed by the NAEP tests. The racial gap has widened by 6 points since 1991, not a huge reversal but not a trivial one either.

These figures are averages. A somewhat different—and distinctly less encouraging—picture is revealed when we look at how many blacks have SAT scores that would make them strong prospects for admission into the nation's top colleges and universities if they were judged exactly as any other applicant, on a color-blind basis. Consider the universities that *U.S. News & World Report* rates as the nation's top twenty-five, where the average combined SAT score for entering freshmen is approximately 1300.²⁶ To be in the running for admission at such a school, the ordinary white applicant needs to score a minimum of 600 on the verbal portion of the test (7 percent of all test-takers in 1981 and 8 percent in 1995) and at least 650 on the mathematics section (8 percent of the total examined in 1981 and 7 percent in 1995).

How many black students have SAT scores that would qualify them for admission to top colleges and universities when judged by the same standards as white applicants? In 1981 fewer than 1,000 (1.2 percent) of the more than 70,000 black students taking the SATs scored as high as 600 on the verbals. (See Table 4.) Almost 58,000 whites, 8 percent of the total, had verbal scores that high; they outnumbered blacks in the verbal elite by a ratio of 61 to 1. Asian Americans also ranked well ahead of African Americans; the proportion scoring 600 or more was six times the black rate.

If we look at the very top scorers—those with 700 or more on their verbals—the disparity is even sharper. Only 70 African Americans in the entire country were on the top rung of the verbal ladder, and well over 8,000 whites. There were 118 whites for every black among the highest scorers, and even the tiny Asian-American group had more than five times as many students with verbal scores of 700 or better.

Table 4
**Number and Percent of Black, White, and Asian Students with
 High SAT Scores, 1981 and 1995**

	1981			1995		
	Black	White	Asian	Black	White	Asian
Verbal						
700-800	70	8,239	366	184	8,978	1,476
650-699	221	16,216	655	465	19,272	2,513
600-649	596	33,231	1,119	1,115	36,700	4,201
Total >600	950	57,685	2,140	1,764	64,950	8,190
Percent >600	1.2	8.0	7.2	1.7	9.6	10.0
Mathematics						
750-800	24	5,077	633	107	9,519	3,827
700-749	132	16,257	1,514	509	29,774	7,758
650-699	393	35,353	2,488	1,437	51,306	9,454
Total >650	549	56,687	4,635	2,053	90,599	21,039
Percent >650	0.7	7.9	15.6	2.0	13.4	25.8
Number examined	75,434	719,383	29,753	103,872	674,343	81,514

Sources: College Entrance Examination Board, *Profiles, College-Bound Seniors, 1981* (New York: College Board, 1982), 41, 60, 79; College Entrance Examination Board, *1995 National Ethnic/Sex Data* (New York: College Board, 1995), unpaginated.

Racial differences on the 1981 math test were even larger than on the verbal test. Only 549 blacks out of the 75,000 taking the test had scores of 650 or higher, 0.7 percent of the total. Whites outnumbered them by 103 to 1. Indeed, more than eight times as many Asians as blacks did that well, though there were many more black test-takers. In the very top group, with scores of 750 and up, the white to black ratio was 212 to 1. It is especially striking that the 30,000 Asian test-takers produced 26 times as many 700-plus scorers as the 75,000 blacks.

In 1995 the number of blacks taking the SAT was up by more than a third, and the number scoring in the upper reaches had expanded by considerably more than that. The proportion with verbals of 600 or more rose from 1.2 percent to 1.7 percent, and the fraction with math scores of 650 and up went from 0.7 percent to 2.0 percent. The racial gap, though, remained huge. In the 700 and up bracket of the verbals, the ratio of whites to blacks was 49 to 1; in the 750-plus category in math it was 89 to 1.

The contrast with the Asians is also marked. Just 3.5 percent of the population in 1995, Asians were 13 percent of all students scoring 700 or more on the verbals and a stunning 27 percent of those with 750 and up in math. If we look at a still more rarefied level of achievement—at the 734 superstar students named Advanced Placement Scholars by the College Board in 1995

because they had high grades on eight different AP tests—the picture is still more dramatic. An amazing 29.7 percent of all the winners were Asians, and 53.1 percent were non-Hispanic whites. Just 2 out of the 734—less than 0.3 percent—were African-American.²⁹

The spectacular academic achievements of the Asian students—records that have made these students impossible for colleges to turn down—account for the surge in their enrollments in elite colleges and universities over the past decade and a half. Less than 4 percent of the population, they account for 24 percent of undergraduate enrollment at Stanford and Columbia, 19 percent at Harvard, 17 percent at Cornell, and 16 percent at Yale.³⁰ The striking differences between Asian and black students clarify the difficulties involved in engineering racial balance in highly competitive institutions. The number of Asian students at places like Harvard has soared, but not because of admissions policies designed to recruit more of them for “diversity” purposes. By now, indeed, Asian Americans are so overrepresented at many elite schools that their presence actually reduces diversity, if it is defined as some approximation of proportional representation for all groups.³¹

Defenders of affirmative action often claim that race is used only as a tie-breaker when two candidates have otherwise identical qualifications. Instead of tossing a coin, admissions officers give the nod to the student from a disadvantaged and underrepresented racial minority—a category that does not include Asians. Few Americans today would complain much if that’s how the process worked. Even those who believe that race-conscious policies are profoundly pernicious in principle might condone putting a thumb on an otherwise evenly balanced scale as a temporary expedient.

These metaphors—breaking a tie, tipping the scales a bit—are appealing but irrelevant to the actual issues in higher education today, as the data above should have made clear. If race were being used only to break ties between equally qualified students, unfortunately we would expect the leading schools to have student bodies in which the percentage of blacks was very small. In fact, the California Institute of Technology, which had a 1.1 percent black enrollment in 1994, seems to be the only example of a nationally known institution in which racial identity merits (at most) a thumb on the scale. Cal Tech is known to be—or at least thought to be—a school that students with less than 750 on the math SATs needn’t bother applying to. Since only 0.8 percent of the nation’s students who score that high in math are black, Cal Tech might have needed to give some preference to black applicants to get even as many as 1.1 percent. If so, the preference given is modest.

MIT, which also expects entering students to have advanced mathematics skills, takes in more than four times as many black students as it would if it only picked top scorers on the math SATs, and three times the number who would qualify on the basis of both verbal and math scores. Bowdoin College, located in Maine, which has barely 5,000 black residents, has a student body

Table 5
**Black Percentage of the Student Body at Selected High-Ranking
 Colleges and Universities, 1994**

University of Virginia	8.9	Brown University	5.6
University of North Carolina	8.9	Princeton University	5.4
Wesleyan University	8.3	Swarthmore College	5.4
Amherst College	8.1	Stanford University	5.3
University of Michigan	7.9	UC-Berkeley	5.3
Duke University	7.5	Dartmouth College	5.1
Wellesley College	7.1	Rice University	4.2
Harvard University	6.9	University of Chicago	3.7
Yale University	6.9	Cornell University	3.7
Columbia University	6.6	MIT	3.6
Williams College	6.6	Bowdoin College	2.1
Johns Hopkins University	6.3	Cal Tech	1.1

Sources: "Long-Term Black Student Enrollment Trends at the Nation's Highest-Ranked Colleges and Universities," *Journal of Blacks in Higher Education* 12 (Summer 1996), 10-14, and "The Status of Black Faculty at the Flagship State Universities" in the same issue, 14-16.

that is 2.1 percent black, and nearby Bates and Colby achieve something similar (with 2.6 and 1.8 percent respectively).

The editor of the *Journal of Blacks in Higher Education* has made a similar calculation of the distribution of SAT scores by race, using 1994 data, and applying it to the twenty-five highest-ranked national universities. African-American students held 3,000 of the 48,000 places in the freshmen classes at those institutions, or 6.3 percent. If test scores alone had been used in making admissions decisions, he estimates, only about one-quarter as many blacks—720—would have been accepted, reducing their share of the class from 6.3 to 1.5 percent.³² The author takes this as a powerful demonstration of the need for affirmative action; we see it as evidence that our universities have gone too far in bending their admissions standards in pursuit of greater racial balance.

MORE BAD NEWS

The gulf in test scores is immense. But should we care about mere tests? Many educators profess to believe that performance on such standardized examinations as the SATs is irrelevant. In 1996, for example, the president of Amherst College charged that it was "simple-minded, incorrect, and even

racist" to believe "the ridiculous notion that 'qualifications' and test scores are synonymous." (His denunciation of tests was so unqualified that it was difficult to understand why Amherst College continued to require applicants to take the SATs at all.) The president of Williams College also dismissed the salience of SAT scores, claiming that "the best measures" of "academic potential" are "rank in class and the degree to which applicants have taken the strongest academic program offered at their schools." On those counts—supposedly much more predictive of college performance than the SATs—he went on to claim, "Williams students of color closely resemble the student body as a whole."³³

It may be true of Williams, but it cannot be true of our most selective institutions of higher education in general. When they heap scorn on "mere tests," defenders of affirmative action pick an easy target, and deflect attention away from a wealth of evidence demonstrating that the racial gap in other measures of academic achievement and preparation is just as large as the gap in SAT scores.

Information about the class rank, grade averages, and courses taken by the 1 million-plus students who took the SATs in 1995 is summarized in Table 6. If rank in class is what should matter to admissions officers, twice as many white as black students ranked in the top tenth of their class. Furthermore, only 8 percent of African Americans but 21 percent of whites had grade averages of 93 or better. Whites were far ahead of African Americans in the average number of courses taken in core academic subjects, and in the proportion taking honors-level courses. In almost every case, Asian students were well ahead of both whites and blacks. When it came to taking honors courses in math and science, indeed, they were as far ahead of whites as whites were ahead of blacks. If one ignored SAT scores altogether and admitted students

Table 6
**Academic Preparation and Achievement of College-Bound
Black, White, and Asian Seniors, 1995**

	BLACK	WHITE	ASIAN
Percent in top tenth of their class	12	23	28
Percent with A average (93 or higher)	8	21	27
No. of year-long courses in 6 academic subjects	27	44	44
Honors course taken in			
English	27	39	40
social science	19	29	35
natural science	18	29	38
mathematics	18	29	42

Source: College Entrance Examination Board, 1995 *National Ethnic/Sex Data*, unpaginated.

on the basis of measures like these, the results would not differ significantly from the pattern produced by using SAT scores alone. As the editor of the *Journal of Blacks in Higher Education* points out, "Data from The College Board clearly demonstrate a direct and strong correlation between grade point average and SAT scores."³⁴

These criteria all relate to academic performance. A college may wish to reward students who have been outstanding in music, drama, athletics, or some other extracurricular activity. Would taking extra-academic excellence into account greatly change the racial and ethnic profile? A study by the National Center for Education Statistics assessed qualifications for admissions to top-ranked schools more broadly, considering not only SAT scores, GPAs, and academic coursework but also extracurricular participation and recommendations by teachers. Assessing 1992 data in terms of these five criteria, the NCES estimated that just 0.4 percent of African-American seniors met the standards for admission at the top schools, as compared with 6.5 percent of non-Hispanic whites and 8.8 percent of Asians. If elite colleges and universities had abided by this formula in making all their admissions decisions, white students would have outnumbered blacks by a ratio of 65 to 1, an even bigger gap than using test scores alone would have produced.³⁵

Taking these other factors into account did somewhat reduce the edge that Asians have over whites, probably because the typical Asian student devotes less time to extracurricular activities. But broadening the criteria in this fashion does nothing whatever to reduce the gap between blacks and whites. It is possible that the president of Williams College is correct in his claim that black freshmen there are just as likely as their white and Asian classmates to have ranked at the top of their class, and to have taken the most rigorous and demanding academic classes available to them. But if so, Williams must have had exceptionally good luck in its recruitment efforts, because African Americans lag badly in these respects, too. So far, at least, critics of tests have been unable to demonstrate that any other measure of academic preparation and achievement yields a significantly different result.

NOT RACE BUT SOCIAL CLASS?

However we measure the academic preparation and achievements of students at the age at which they are applying to college, we find large and disheartening racial differences. Such disparities in academic performance were only to be expected three decades ago, when the dual school system was still largely intact in the South and the black middle class was much less developed than it is today. It is surprising and disturbing that they still loom so large today. The reasons are undoubtedly complex and not entirely known but here we look just at one possibility: the impact of the remaining social-class differences

between African Americans and whites. Children from low-income families, we know, do less well on tests and in school in general than those from middle-class homes. The children of highly educated parents do better than those from families with less education.

A crude but illuminating test of the hypothesis that social-class differences are the main cause of the racial gap in SAT scores may be obtained from data available from the College Board (Table 7). The results are very disturbing. In 1981 black students coming from families in the top income bracket—those earning \$50,000 or more—had a mean verbal score of 414 and a mathematics score of 433. That was 47 and 76 points below what white students from the same income bracket scored in the verbals and in math respectively. The scores were approximately those of white students from families in the *lowest* income category—under \$6,000 a year. The poorest whites were only 10 points behind affluent black children on the verbal test and actually a shade ahead of them in mathematics.

Low-income Asians performed much less well than well-to-do blacks on the verbal SATs, which doubtless had much to do with the fact that many were recent immigrants with a limited command of English. In math, though, the poorest Asians outscored the most prosperous blacks by more than 50 points. Poverty doubtless depressed overall black scores, but white and Asian children from families that also lived in poverty were not nearly as handicapped by it.

The other social-class variable that should have an impact on the educational performance of children is the education of their parents. Black children perform much less well than whites on the SATs partly because black parents have less education, on the average. But that explanation doesn't take us very far. In 1981 white students whose parents had only a grade school education had higher scores than blacks whose parents had acquired a graduate degree, and Asian children of similarly uneducated parents lagged on the verbals, as seen previously, but they performed nearly 100 points better in math than black youths from the highest parental education bracket.

Fourteen years later, in 1995, the patterns looked about the same. Black students from families in the top income bracket—now \$70,000 and up—were a shade behind whites in the lowest income bracket on the verbal test, and significantly behind them in math. They were well ahead of the poorest Asian children in the verbals, but also well behind them in math. The only hint of progress was that blacks from families in the top educational category did better than in 1981, while whites in the lowest one—this time those without a high school diploma—did a little worse. But African-American children from families in which at least one parent had a graduate degree still were not performing as well as white youths whose parents had no education beyond high school, and in math they fell behind the offspring of Asian high school dropouts. In short, the rising educational level of the black population and the continued expansion of the black middle class since the 1960s has not yielded the expected gains in educational achievement by the younger

Table 7
**SAT Scores by Family Income, Parental Education,
 and Race, 1981-1995**

	VERBAL	MATHEMATICAL
<i>1981 median scores</i>		
Family income		
Blacks, \$50,000 or more	414	432
Whites, under \$6,000	411	436
Asians, under \$6,000	299	485
Parental education		
Blacks, graduate degree	388	406
Whites, grade school only	395	429
Asians, grade school only	333	501
<i>1995 mean scores</i>		
Family income		
Blacks, \$70,000 or more	407	442
Whites, under \$10,000	409	460
Asians, under \$10,000	343	482
Parental education		
Blacks, graduate degree	406	438
Whites, no high school diploma	374	418
Asians, no high school diploma	338	478
Whites, high school graduates	414	459
Asians, high school graduates	382	502

Sources: College Entrance Examination Board, *Profiles, College-Bound Seniors, 1981*, 36-37, 54-55, 73-74; 1995 *National Ethnic/Sex Data*, unpaginated. It is unfortunate that the College Board tabulated medians for the 1981 data and means in 1995. For data of this kind, however, the difference between the two summary statistics is not significant. The 1981 data on parental education gives separate figures for the education of mothers and of fathers; scores for the two have been averaged here. The 1995 parental education figures are for the highest level of education attained by either parent.

generation, the kind of payoff that Asian students are receiving today. Why that should be so undoubtedly has much to do with the weakness of the elementary and secondary education that many are receiving—a topic we addressed in the previous chapter and one to which we will return.

PREFERENTIAL ADMISSIONS AND DROPPING OUT

We have seen that since the 1960s black enrollments in college have increased much more dramatically than the rate of black graduation. The college drop-

out rate for black students is at least 50 percent higher than it is for whites. We suggested earlier that misguided affirmative action policies may have done a lot to create the problem. Here we examine that argument more fully. The point is simple. When students are given a preference in admissions because of their race or some other extraneous characteristic, it means that they are jumping into a competition for which their academic achievements do not qualify them, and many find it hard to keep up.

Affirmative action policies in higher education rest upon the optimistic assumption that a student's past record has little predictive value. Exposure to the college environment, it is assumed, will have a transforming effect upon minority students and stimulate them to perform at a much higher level than before. "We are interested in applicants' academic potential rather than past performance," the president of Williams declares.³⁶ Just how Williams admissions officers discern the "potential" of applicants except by considering their past performance is unclear. Whatever divining rod they use, it is one that somehow detects more untapped potential in minority students than in others.

Until recently it has been impossible to obtain evidence about the magnitude of the preferences involved in affirmative action admissions or about the performance of students who have been its beneficiaries.³⁷ And the picture is still incomplete, but we do have bits and scraps of important information. We now know, for instance, that at the University of California at Berkeley, the evidence of "past performance" that the president of Williams thought of doubtful value proved to be highly predictive of academic success in college. In July 1995 the regents of the UC system voted to abolish racial and ethnic preferences in admissions and to admit students on a color-blind basis in the future.³⁸ The controversy that led to that decision forced the release of illuminating data. Table 8 shows the connection between the SAT scores of freshmen who entered Berkeley in 1988 and their graduation rate. Only 58 percent of students who entered the school with a combined score in the 700s made it through to a degree; among those who scored in the 800s, 62 percent finished. Students with scores in the 1200s, by contrast, had an 86 percent graduation rate, and those in the 1300s an 88 percent rate. (The pattern reverses somewhat for those scoring in the 1400s and 1500s, but the change may not be statistically significant because of the relatively small numbers at that level. It is also possible that some of these seeming dropouts merely transferred from Berkeley to other elite schools—for instance, Cal Tech, Stanford, or Harvard).

Such figures are not available broken down by race, regrettably, but we have enough additional information to draw some conclusions. First, black freshmen in that class had combined SATs that averaged under 1,000, fully 304 points below the white average and 326 points below the Asian average. They also had high school grade averages of only B+, while their white and Asian classmates had GPAs close to straight-A.³⁹ The black students with the

Table 8
**Proportion of 1988 Freshmen Who Had Graduated by 1994,
 by SAT Scores, University of California at Berkeley**

700-799	58
800-899	62
900-999	72
1000-1099	78
1100-1199	83
1200-1299	86
1300-1399	88
1400-1499	84
1500-1599	79

Source: "Affirmative Action Under Attack on Campus Where It Worked," *New York Times*, 4 June 1995, A22.

strongest credentials—with verbal and math scores in the top quartile for African-American freshmen—ranked in the bottom quarter of all students at the school.⁴⁰ Second, we know that the black graduation rate was only 59 percent, as compared with the white rate of 84 percent and the Asian rate of 88 percent. It is very difficult to believe that there is no connection between these two sets of facts. The very high black dropout rate would seem logically the result of the inadequate academic skills with which African-American students arrived as a result of preferential admissions. They were put in this predicament by the unfortunate combination of poor preparation and preferential admissions.

The 41 percent dropout rate for African Americans entering Berkeley in 1988 was not exceptionally high by national standards. As we saw earlier, about six out of ten blacks who begin college fail to complete it, an attrition rate about 50 percent higher than that of whites. The picture looks somewhat different, however, if we focus on the very top colleges and universities, most of which have much lower dropout rates than Berkeley. Since some observers have interpreted the record of such schools as proof that affirmative action is a great success, a closer look at these elite schools should be useful (Table 9). At Harvard, all but 5 percent of entering African Americans graduate within six years, not dramatically different from the 3 percent figure for whites. Those figures are important because Harvard's admissions policies are often cited as the model. In the landmark 1978 case *Regents of the University of California v. Bakke*, for instance, Justice Lewis Powell made much of the fact that racial considerations entered into Harvard's admissions decisions as one of many factors. We will return to the *Bakke* case later. For now, we note that Table 9 suggests that Harvard is a very dubious model, since it attracts much

better prepared black applicants than any other school, and obtains a substantial black enrollment—close to 7 percent—with nothing more than a light thumb on the scale. With a 1,305 mean SAT score for African Americans entering the freshman class in 1992, it is the only school in the country where the racial gap in SAT scores is not in the triple digits.

In any event, Harvard is a very special case. The mean SAT score of its African-American students was 133 points higher than that of black students admitted to Princeton, the closest contender. Their score was actually higher

Table 9
SAT Scores of Black Freshmen, 1992, the Racial Gap in Scores,
and Dropout Rates in Selected Elite Universities

	SAT RACIAL GAP	MEAN BLACK SAT	BLACK	WHITE
			<i>Percent dropping out</i>	
Harvard	-95	1,305	5	3
Princeton	-150	1,172	9	5
Brown	-150	1,160	13	6
Pennsylvania	-150	1,135	28	10
Cornell	-162	1,118	23	8
Stanford	-171	1,164	17	6
Northwestern	-180	1,075	21	10
Columbia	-182	1,128	25	12
Duke	-184	1,126	16	5
Dartmouth	-218	1,112	16	4
Virginia	-241	979	16	7
Rice	-271	1,093	26	11
UC-Berkeley	-288	947	42	16

Sources: SAT scores of students starting college in the 1992-1993 academic year from Theodore Cross, "What if There Was No Affirmative Action in College Admissions? A Further Refinement of Our Earlier Calculations," *Journal of Blacks in Higher Education*, 5 (Autumn 1994), 55. The dropout rate is the proportion of the students entering those schools in the four classes from 1986-1987 to 1989-1990 who failed to graduate within six years of entry, as given in National Collegiate Athletic Association, *1996 NCAA Division I Graduation-Rates Report* (Overland Park, Kans.: 1996). The dropout rates are not for the same entering classes; such figures for students starting college in 1992 obviously will not be available until 1998. The data available are for earlier entrants, so the gap in scores documented here cannot have directly caused these dropout patterns. The fragmentary data available, though, suggests that the average scores of students at a particular school and the proportion dropping out do not fluctuate much from year to year. At UC-Berkeley, about which the evidence is richest, the SAT gap and the gap in dropout rates changed very little between 1984 and 1994; see "Affirmative Action Under Attack," *New York Times*, 4 June 1995, A22.

than the average score for whites at such distinguished schools as the University of Chicago, Cornell, and Penn. It was 50 points above the score of whites at Northwestern, 70 points above those at Berkeley, and 80 points above those at Virginia. What is more, a score of 1,305 was so close to the top of the scale that it is questionable whether the 95 points separating the average black freshman from the average white freshman at Harvard was even statistically meaningful, since the SAT was not designed to make fine distinctions among students at the very top of the distribution.

In none of the elite schools in Table 9 is dropping out a huge problem. The vast majority of all students graduate. It is extremely difficult to get accepted in the first place, but also hard to flunk out. On the other hand, none of them can boast no racial gap in graduation rates. At all but Harvard and Princeton, which top the list, African-American students are at least twice as likely to fall by the wayside and fail to take a degree. These are very able students, and it is dismaying that a fifth to a quarter or more of them are dropping out in many cases. It is difficult to doubt that there is a connection between the academic double standards in the admissions procedures of these schools and the differences in academic outcomes.

THE ECONOMIC COSTS OF DROPPING OUT

Elite schools are by definition atypical. At less selective institutions the overall dropout rate is higher and the black-white gap is correspondingly larger (Table 10). Economists Linda Datcher Loury and David Garman analyzed a representative national sample of young males from the time of their high school graduation in 1972 down to 1986, when they were in their early thirties, and found that graduating from selective colleges—with selectivity defined by average SAT scores—paid off in the labor market. Giving African Americans a better chance at the best-paid jobs might seem a good reason for affirmative action. Loury and Garman discovered, however, that many of the blacks who attended the more selective schools never graduated to reap the rewards; indeed, their chances of graduation were powerfully affected by how their SAT scores compared with the average at the schools they attended. The greater the gap, the lower their chances of making it through.

Some white students, it is often said, are also admitted preferentially—although on the basis of such nonacademic factors as being the child of an alumnus or having special athletic or musical talents. But these considerations are given much less weight than race in the admissions decisions of most schools, with the result that whites typically attend schools in which their academic credentials are about the same as those of their classmates.⁴¹ Thus, the average white student in the Loury and Garman study had an SAT score of 1,011, and had gone to a college at which the median score was almost

Table 10
**How Graduation Rates of Black Students Vary with Their
 SAT Scores and the Median SAT Score at Their College,
 1972 High School Graduates**

Percent graduating of students with SATs of	COLLEGES WITH MEDIAN SATs OF	
	900	1,000
700 or less	38	26
701-850	56	39
851-1,000	77	51
over 1,000	77	51

Source: Linda Datcher Lounsbury and David Garman, "College Selectivity and Earnings," *Journal of Labor Economics* 13, no. 2 (1995), 304. The failure of the pattern evident in the three lower SAT groups to show up for those with scores over 1,000 may reflect the fact that the number of blacks in this category was very small.

precisely that—1,019. Whites were well matched to the colleges they attended, and could survive academically simply by doing the same amount of schoolwork as their fellow students.

But those African Americans in the study who had been to college had experienced a less comfortable and more threatening environment. The typical black student in the sample had a combined SAT of 768—unexceptional at many institutions of higher learning. But African Americans with scores in this range did not attend schools in which the average SAT was in the high 700s. The blacks in the study had instead been enrolled in colleges in which the average student scored 936, making the typical African-American freshman 168 SAT points behind the typical white freshman. And equally far behind, of course, in all the other academic measures correlated with SAT scores—in grade point averages, number of years of coursework in academic subjects, and number of honors courses taken. Naturally they faced an uphill struggle getting through.

Did they not benefit from attending "better" schools than they would have enrolled in without affirmative action, however? Proponents of preferential policies assume that it is an unmixed blessing to give minority students access to the most prestigious and demanding colleges. If it forces the beneficiaries of preferences to stretch themselves more than their white peers who enter with stronger credentials, fine. In some cases the pressure is undoubtedly beneficial, but many students break under the strain.

The Berkeley story contained in Table 8, in other words, applies to black students nationally. When a student and a college are mismatched, the lower the SAT score, the less likely that student is to graduate, the Lounsbury and Garman evidence showed. Blacks with SATs in the 701-to-850 range, for

example, had a 56 percent chance of graduating from a college where the median score was 900. If they were given a bigger affirmative action boost and admitted to a school where the median SAT score was 1,000 and the racial gap was 100 points larger, their chances of making it through to a degree dropped sharply, to just 39 percent. Likewise, African-American students with scores from 851 to 1,000 had a three-to-one chance of graduating from a school in which their scores were average or even a little above average. On the other hand, the odds of their succeeding fell to 50-50 if they were generally below the college SAT average. The point, of course, squares with common sense.

The Loury and Garman study also looked at what happens to students after college, answering those who argue for giving black students a crack at places like Berkeley even if their chances of graduating are not good. Failure carries a painful price. In 1986, fourteen years after leaving high school, black college dropouts were earning one-quarter less than their counterparts who went to less selective schools in the first place but managed to graduate. When colleges attempt to display their social commitment by admitting "high-risk" students from minority groups, in other words, it is the students who suffer when the risks don't pan out. The schools may feel better, having demonstrated their racial virtue, but many of the beneficiaries end up worse off.

THE OLE MISS MODEL

The black-white gap in graduation rates is trivial at Harvard and a few other elite institutions like it. It is surprising and intriguing, though, that the gap is still smaller at another university of an entirely different sort. Difficult though it is to believe, the university that comes closest to racial equality in graduation rates is none other than the University of Mississippi, the "Ole Miss" that was the object of such a bitter, ugly fight over integration in the early years of the Kennedy administration. Of the freshmen entering the school from 1984 through 1987, 49 percent of the whites graduated; for black students it was a nearly identical 48 percent.⁴²

What is more, a similar pattern prevailed at other southern schools that are not generally seen as bastions of racial liberalism. At the University of Alabama, 55 percent of whites and 49 percent of blacks graduated. At the University of South Carolina it was 62 and 56 percent, and at the University of Georgia, 60 and 48 percent. These Deep South institutions, among the very last in the nation to accept black students, had smaller racial gaps in graduation rates than most of the elite, mainly private, schools listed in Table 9.

What explains this rather startling pattern? It is not that these schools have become more committed to giving special assistance to black students than northern colleges with a strong liberal tradition. Not at all. The answer given by the *Journal of Blacks in Higher Education* is that Ole Miss and its sister

schools in neighboring Deep South states require students of both races to achieve a minimum SAT score that is set high enough to bar students likely to experience severe academic difficulties. Although these southern institutions claim to have affirmative action programs, they nevertheless impose admissions requirements that screen out the high-risk students who would be accepted at comparable schools that employ a double standard in evaluating black applicants.

The *Journal*, a fervent advocate of affirmative action, expressed unhappiness that "only the most highly qualified black students" in these states "are admitted to the predominantly white institutions." It complained that African Americans were severely underrepresented at Ole Miss, making up 9.4 of the student body but 35.6 percent of the population of the state.⁴³ If the racial disparity in SAT scores and grades that is the main source of that underrepresentation is attributable to deficiencies in the state's public schools, something should obviously be done to address the problem at that level. Racial double standards in college admissions allow elementary and secondary schools to continue to serve students poorly, offering a quick fix that in fact is no remedy.

LEGAL CHALLENGES TO PREFERENTIAL ADMISSIONS

Giving spaces in competitive educational programs to minority students with academic records notably weaker than those of whites who were turned away has inevitably provoked controversy. The practice has been hard to square with the moral code of the civil rights movement—that of judging people on the basis of their individual merits rather than group characteristics. And thus it has been hard to square with the crowning achievement of that movement: the Civil Rights Act of 1964, which barred discrimination on the basis of race, religion, or national origin. In addition, racial preferences seemed to violate the equal-protection promise of the Fourteenth Amendment.

As a legal matter, the issue first surfaced in suits challenging preferential admissions policies not in colleges but in professional schools at state universities. They were the most logical points of attack because their announced admissions policies gave more weight to strictly academic qualifications than did most selective colleges, which generally looked at such extracurricular activities as drama clubs and the like. Professional schools thus found it harder than colleges to claim that race was just one of a great many nonacademic factors they took into account in making admissions decisions. They also had specialized tests like the Law School Aptitude Test (LSAT), the Medical College Aptitude Test (MCAT), and the Graduate Records Examination (GRE), which predicted performance in graduate programs more reliably than the SATs predicted college grades. Not all professional schools, however, were equally vulnerable to suits challenging their affirmative action programs.

The Fourteenth Amendment, the obvious starting point for plaintiffs, could only be used against state institutions, since it did not bar discriminatory action in the private sector.

The first case challenging such racial preferences in higher education was heard by the Supreme Court in 1974. Marco DeFunis had sued the University of Washington Law School for having turned him down while accepting thirty-six minority students, all but one of whom had lower college grades and poorer scores on the LSATs than he did.⁴⁴ But he had been admitted when he won the first round in the battle, and by the time his case wended its way through Washington state courts and arrived at the Supreme Court, he was beginning his final term at the law school. The High Court thus declared the matter moot. Four years later, however, a white plaintiff was back before the Supreme Court, asking much the same set of questions: Was it legitimate to attempt to promote the advance of members of a racial group that had long suffered from prejudice by making special allowances for their prior racial disadvantage? Was it morally offensive to dispense benefits on the basis of group membership only when majorities employed racial categories to harm minority interests, as had been the case for much of our history? The Fourteenth Amendment had been passed to guarantee African Americans the basic citizenship rights they had long been denied. Did the Constitution nevertheless set limits on what could be done to overcome the effects of centuries of discrimination against black people?

The plaintiff in 1978 was Allan Bakke, who had graduated from the University of Minnesota in 1962, and stayed on briefly for graduate work. He had gone on to serve in the Marine Corps in Vietnam, work as a research engineer in California, and earn a master's degree in mechanical engineering from Stanford. By the time he applied to the medical school at the University of California at Davis in 1973, he was in his early thirties, and his age was a serious handicap. (Professional schools in the days before the Age Discrimination Act of 1975 seldom trained students who had been out of college for more than a few years.) On the other hand, Bakke's credentials were excellent. His grade record was stronger than that of most regular admittees, and his MCAT scores were much better. He was in the 97th percentile in the science section of the test and just a shade below that on the verbal and quantitative sections. But he was rejected for the 1973-1974 entering class, and rejected again the next year.⁴⁵

Although his age may have been Bakke's biggest handicap, the school's two-track admissions procedure, prompting his legal complaint, also limited his chances. Sixteen of the hundred places in the first-year class at the Davis medical school were set aside for (in theory) "economically and/or educationally disadvantaged" applicants. In fact, since no white ever got one of the sixteen places, it was really a special minority admissions program. Not only were the slots reserved for blacks, Hispanics, and an occasional American

Indian (no Asians), they were filled by an entirely separate committee that accepted and rejected candidates without comparing them to students in the regular applicant pool.

The academic records of the minority admittees were dismal compared to that of Allan Bakke. In 1974 they had C+ grade averages as undergraduates, compared with Bakke's A-; their MCAT scores put them at the top of the bottom third of all test-takers, while Bakke was well up in the top 10 percent. In terms of traditional academic qualifications, there was no comparison. The MCAT averages for the minority students fell below the 50th percentile in every category and averaged around the 33rd, while the lowest percentile average for the regular admittees in any MCAT was the 67th. A school that had refused admittance to a black student with Bakke's record while admitting whites who were as academically weak as those of the minorities accepted for special admissions would surely have been successfully sued for racial discrimination.

Allan Bakke's case was first heard in a state court, which ruled that the special admissions program was indeed an unconstitutional racial quota, and that the admissions preferences given to minority applicants violated Bakke's right to the equal protection of the laws.⁴⁶ The university took its argument to the California Supreme Court. Although that court had a strongly liberal reputation, it upheld Bakke by a 6-to-1 vote and declared the racial set-aside a clear violation of the Fourteenth Amendment.⁴⁷ UC-Davis appealed once again and the case—by then a cause célèbre—went to the U.S. Supreme Court. A record fifty-seven “friend of the court” (*amicus curiae*) briefs were filed in the case. About three-quarters of them, from leading universities, civil rights groups, and minority organizations, sided with the University of California. Seven Jewish organizations, a smattering of other ethnic, conservative, and business groups backed Bakke.⁴⁸

The Supreme Court's decision in *Regents of the University of California v. Bakke* was a personal victory for Allan Bakke—he got to go to medical school—but not for the color-blind principle at the heart of his case. Racial preferences were left standing, thanks to Justice Powell, who, although largely writing on his own, essentially gave the Court's opinion. Shuttleing between two camps in a 4-1-4 decision, Powell voted with one group of four to strike down Davis's quotas, but used the votes of four liberals to allow the school to consider race as one factor in admissions. Although there was no single majority opinion, he thus cast a decisive fifth vote for the liberals on one issue, and a decisive fifth for the conservatives on another.

The *Bakke* decision is perhaps best known for Justice Harry Blackmun's famous dictum that “in order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently. We cannot—we dare not—let the Equal Protection clause perpetuate racial supremacy.”⁴⁹ It was not clear why racial quotas and racial supremacy were the only two alternatives. But the vaguely Orwell-

ian notion that it was necessary to treat some persons "differently" in order to treat them "equally" had already, by 1978, become civil rights orthodoxy.

Justice Blackmun was the phrase-maker, but Justice William Brennan's was the most important voice supporting the university. His opinion dismissed the classic liberal insistence that "[o]ur Constitution is color-blind" as an interpretation that had "never been adopted by this Court as the proper meaning of the Equal Protection Clause."⁵⁰ That was true enough, but it did not answer the question of whether it wasn't time for the Court to say precisely that. Brennan's view, however, was clearly that Justice John Marshall Harlan (dissenting in *Plessy* in 1896) had been wrong and remained wrong. Racial discrimination that stigmatized a group was wrong, but not that which was "benign." "Government may take race into account when it acts not to demean or insult any racial group, but to remedy disadvantages cast on minorities by past racial prejudice, at least when appropriate findings have been made by judicial, legislative, or administrative bodies with competence to act in this area." Those "disadvantages cast on minorities by past racial prejudice," Brennan argued, were behind "the failure of minorities to qualify for admission at Davis under regular procedures." But for "pervasive discrimination," Bakke (it is reasonable to conclude) "would have failed to qualify for admission even in the absence of Davis's special admissions program."⁵¹

It was an imaginative rewriting of history, and it was rejected by Powell. All previous racial preferences had been remedies, Powell emphasized, usually for the constitutional violation of school segregation or the statutory violation of employment discrimination. "We have never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations." So far, so good, but Powell's next step was to open the back door to quotas. It was legitimate, he said, for a school to make admissions decisions aimed at producing a "diverse student body"; race could thus be taken into account. Invoking both academic freedom and the First Amendment as protecting a university's interest in selecting "those students who will contribute the most to the 'robust exchange of ideas,'" he accepted with a wink the notion that UC-Davis thought of this concern when it created its quotas. The whole argument, of course, rested on the very stereotyping that the Fourteenth Amendment was supposed to bar—the notion that racial differences were a proxy for differences in "points of view, backgrounds, and experiences."⁵²

Powell's "diversity" edifice had all sorts of cracks in its foundation. With the exception of "geographical origin," all the characteristics that he mentioned (musical or athletic talent, for instance) were individual; to list racial identity as a desirable characteristic is to engage in racial stereotyping on the basis of group membership. Most important, however, was his embrace of one sort of "diversity" program—that which Harvard College had adopted—while

rejecting that in place at UC-Davis, when in fact it was a distinction with no important difference.

Harvard College, Powell said, had no numerical quotas for "the number of blacks, or of musicians, football players, physicists or Californians to be admitted in any given year," but nonetheless allowed such factors to be a "plus" when an applicant was compared with others.⁵³ Race had to be "simply one element—to be weighed fairly against other elements—in the selection process." Harvard College, he thought, used it that way; the medical school at the University of California at Davis did not. There was much wrong with Powell's use of the Harvard model. The college wasn't a professional school, and thus did look for nonacademic talents. Moreover, it drew an incredibly talented pool of applicants (as we noted before). And what did it mean in practice to say that race could be a "plus" but not a decisive factor? When did the "plus" become decisive? Justice Powell wanted race to be "weighed fairly," but provided no illumination as to just how much weight could "fairly" be given to it. Enough to make up for having a GPA or a MCAT score just a bit below that of the typical white student accepted? Or enough to compensate for grades or scores in the bottom 30 percent when the average student enrolled at the school was in the 90th percentile? And if it was only the former, then not only UC-Davis but almost every other institution of higher education with an affirmative action program violated both the Constitution and Title VI of the 1964 Civil Rights Act, which barred discrimination in institutions receiving federal funds. (All medical schools are recipients of federal grants.)

Institutions of higher education, with the arguable exception of Harvard College, all violated the *Bakke* standard because, given the academic performance of most applicants, race could not be simply a "plus" factor. Indeed, though Justice Powell probably did not know it, in the mid-1970s the Harvard Medical School was reserving 20 percent of the places in each entering class for minorities, a larger proportion than at Davis.⁵⁴ And it was Justice Brennan who made clear just how useless Powell's distinction between good and bad discrimination was. Any admissions program, he said, that "accords special consideration to disadvantaged racial minorities" must determine how much preference to give them. But any amount of preference will to some extent exclude whites, so as a constitutional matter "there [was] no difference" between Davis's and Harvard's approaches. The amount of preference, or weight, or "plus," a minority applicant receives could only depend on how many minorities the school wished to admit:

There is no sensible, and certainly no constitutional, distinction between, for example, adding a set number of points to the admissions rating of disadvantaged minority applicants . . . with the expectation that this will result in the admission of an approximately determined number of qualified minority applicants and setting a fixed number of places for such applicants as was done here.

Harvard itself, in a part of the plan that Powell relegated to an appendix, as much as admitted this.⁵⁵ Harvard's approach merely allowed it to be less frank than Davis, Brennan explained. While this may have had public relations advantages, it had no constitutional relevance.

Justice Powell conceded that programs like those at Harvard might be viewed as "simply a subtle and more sophisticated—but no less effective—means of according racial preference than the Davis program." He insisted, however, that a "facial intent to discriminate" could be seen in the Davis plan but not in the Harvard program. As long as a school professed to "employ a facially nondiscriminatory admissions policy," he said, no court would assume that it would "operate it as a cover for the functional equivalent of a quota system."⁵⁶ Professed intent was thus the key.

Justice Thurgood Marshall, the Court's only black member, viewed the Davis program as an effort to "remedy the effects of . . . centuries of unequal treatment," although Davis had crafted a preference program with no authority or effort to identify victims of discrimination and without identifying either itself or anyone else as guilty of discrimination. Both he and Brennan defended quotas as reparations—compensating applicants who (in Brennan's words) were "fully qualified to study medicine."⁵⁷ Marshall's bitter opinion conjured up the specter of another great reversal in the nation's treatment of African Americans, a rhetorical strategy that, in subsequent years, has been employed increasingly by civil rights advocates. With the retreat from Reconstruction at the close of the nineteenth century, Marshall wrote, the Supreme Court had "destroyed the movement toward complete equality" by sanctioning segregation under the separate-but-equal doctrine. Now the Court was "again stepping in, this time to stop programs of the type used by the University of California."⁵⁸

The final opinion was that of Justice John Paul Stevens. Title VI was the issue, he said. The university received federal funds; it excluded Bakke because of his race; therefore, by "the plain language of the statute," it violated the law and, as the California Supreme Court ordered, must admit him. Only if the facially color-blind statute "misstate[d] the actual intent of the Congress that enacted the statute" could the Court justify another conclusion. It didn't. The Civil Rights Act protected individuals, of whatever race, and protected them all equally. Neither the statute nor the legislative history left any room for allowing discrimination that lacked "racial stigma." "As succinctly phrased during the Senate debate, under Title VI it [was] not 'permissible to say "yes" to one person; but to say "no" to another person, only because of the color of his skin.'" ⁵⁹ That settled the matter for Justices Stewart, Rehnquist, and Burger, as well as Stevens. They needed one more vote, however, to make theirs the majority opinion. And had they had it the subsequent history of affirmative action in higher-education admissions policies—and indeed perhaps of preferential policies altogether—would have been entirely different.

As it was, Justice Marshall's lurid estimate of the impact of the *Bakke*

decision on the admissions policies of the nation's colleges and universities proved to be far off the mark. *Bakke*—thanks to Powell—did little to curb affirmative action. The decision gave Allan Bakke his chance to become an M.D., but other disappointed applicants who felt that they had been denied educational opportunities because of their race had little to cheer about. Schools were to look at individuals, judging them on a "case-by-case basis," and not as members of groups, Powell had said.⁶⁰ It was an exercise in pure wishful thinking. In the immediate wake of the Court's decision, another branch of the UC system—Boalt Hall, the law school at Berkeley—adopted an affirmative action admissions procedure in which applicants who were members of one racial group were judged only against other members of that group; blacks competed only against blacks, in other words. In addition, the school maintained racially separate waiting lists, such that students received notices that ran something like "You are number 10 on the black waiting list."⁶¹

Fourteen years later the (Republican-controlled) U.S. Department of Justice finally said, no, Boalt Hall could not maintain almost precisely the same sort of program that the Court had struck down in 1978. "After *Bakke*, Berkeley decided it was safest to use subtlety and deception to accomplish the important goal of a racially diverse student body," Ruben Navarrette, Jr., the editor of *Hispanic Student USA*, wrote in the *Los Angeles Times*. "For 14 years," he went on, "Berkeley and its UC sisters . . . pretended not to violate *Bakke*. . . . Did Boalt violate *Bakke*? Of course." As a high school senior seven years earlier, Navarrette had obtained a copy of what he called "the University of California's not-so-subtle five-year affirmative-action plan." Had it set a "goal" or a "quota" for each minority group? "Same difference," he answers. "I was accepted to Berkeley under a quota that the Supreme Court had ruled illegal; I was accepted to Harvard under a goal that had the court's blessing."⁶²

Berkeley agreed to go to a single admissions committee and had already (in 1989) given up on its ethnically sorted waiting lists—although from the beginning of the process to the end, applicants were still racially identified. As the executive director of the Association of American Law Schools stated, these were certainly "minor adjustments." And while the president of a similar organization (the Association of Colleges and Universities) said he had "no reason to think [Boalt Hall's] practices were unique or even unusual," no other school—at least publicly—took any significant steps to mend its affirmative action ways.⁶³

Thus, eighteen years after *Bakke* the Fifth Circuit Court of Appeals took a hard look at admissions procedures at the University of Texas Law School and found a system that could not, by any stretch of the imagination, meet the already pathetically weak legal standards set out in the High Court's landmark 1978 decision. Justice Powell had written an opinion that required a small shift in rhetoric (race as a "plus" factor, "diversity" as the goal), but which, by and large, schools simply ignored.

HOPWOOD

If judicial decisions contained subtitles, the majority opinion in *Hopwood v. Texas* might have read, "the road to hell, paved with the best intentions." The University of Texas (UT) Law School had ("with the best of intentions," Judge Jerry E. Smith acknowledged) adopted a policy of preferential admissions that confirmed the worst fears of those opposed to quotas. Blacks and Hispanics were admitted by a segregated evaluation process (conducted by a minority committee of three whose word was final) and were held to much lower academic standards than whites and Asians. For the latter two groups, the school was extremely difficult to enter; the median LSAT score of whites in the 1992 class was in the 91st percentile. But the story was quite different for African Americans (not blacks from abroad) and Hispanics (citizens or aliens)—the preferred "minorities." The black median score that year was in the 78th percentile. The grade point averages of the two groups were similarly different. Cheryl Hopwood, white but disadvantaged by any normal measure, along with three other students filed a Fourteenth Amendment suit after they had applied unsuccessfully for admission to the 1992 entering class. According to the plaintiffs, six-to-seven hundred higher-scoring white Texas residents had been passed over before the first blacks were denied admission.⁶⁴

As Judge Smith, writing the court's opinion put it, "race was always an overt part of the review of any applicant's file."⁶⁵ The school said it lowered standards to meet a goal of 10 percent Mexican Americans and 5 percent blacks—a target set to overcome the effects of past discrimination and to ensure "diversity." One is tempted to ask, how did UT think it could get away with such obviously vulnerable arguments for admissions procedures that were so wrong from so many angles?

What exactly, for instance, were the lingering effects of past state-sponsored discrimination that the program addressed? Most of the black students at the law school came from out of state; were those who grew up in New York victims of Texas policies such that a Texas state institution was obligated to provide a remedy? And if not, surely it was insufficient to point in the vague direction of harms from "societal discrimination"—a bottomless pit that could be used to justify any and all racial preferences. The "diversity" rationale had been used by Justice Powell—and only Powell—in *Bakke*, and it had cropped up in one other, overruled decision. What did "diversity" mean? The concept was simply "too amorphous" and "too insubstantial" (as Justice Sandra Day O'Connor had once noted) to justify sorting out citizens on the basis of race—which was highly suspect under the best of circumstances.

The whole admissions process, in fact, reeked of discrimination—precisely the discrimination that the Constitution forbids. The point of the Fourteenth Amendment had been to end all racially motivated state action; the UT law school was a state institution that was using race to decide who was entitled

to a seat in its classrooms. Segregated admissions policies; segregated waiting lists; blatant racial double standards: the whole system was uncomfortably close to a Jim Crow nightmare, ostensibly for benign ends. As a professional school, the admissions office did not look at nonacademic talent. But it did look at race, which was certainly not a "plus" factor; for most black and Hispanic students it was decisive. The Fifth Circuit said simply, call it quits: "The law school may not use race as a factor in deciding which applicants to admit."⁶⁶ *Bakke*-like facts had produced a very un-*Bakke*-like holding—eighteen years later. The Supreme Court did not take the case, but had it done so, would it have signed on to Judge Smith's sweeping rejection of race-based state action? The question, of course, cannot be answered, but, as the next chapter will make clear, in 1996 there was certainly less sympathy on the High Court for race-driven policy than there had been in the 1970s, when Justice Powell danced—or stumbled—around the issue.

CAN WE DO WITHOUT?

The reaction to the *Hopwood* decision on the part of higher-education spokesmen was borderline hysteria. Justice Marshall in 1978 had warned that the extremely mild—indeed, utterly innocuous—curbs upon racial preferences contained in the *Bakke* decision might have led America to "come full circle"—that the nation seemed once again back at the end to Reconstruction.⁶⁷ Eighteen years later, when *Bakke* was in effect relitigated, the same cry of impending disaster went up. If the Supreme Court did not overturn the decision, the law school would become a "passive participant in a system of racial exclusion," the U.S. Department of Justice said.⁶⁸ Not just that law school, the Justice Department—and others—clearly believed. University of Miami law professor Donald Jones envisioned "lily-white universities across the United States." University of Texas president Robert M. Berdahl predicted that the decision, if upheld, would lead to "the virtual resegregation of higher education."⁶⁹

Given the credentials of the minority applicant pool to the UT law school, there is no doubt that even reducing race to the "plus" factor that *Bakke* allowed (but the Fifth Circuit did not) would greatly diminish the black and Hispanic presence at that particular law school—one would hope, only in the short run. Unless, that is, the school came up with some sort of subterfuge—a different means to the same end. By one calculation, if Texas had based its 1992 admissions on a strictly color-blind standard, the entering class of five hundred students would have included, at most, nine who were black, all of whom would have been courted by the most prestigious law schools in the country.⁷⁰ But would the total number of black students at law and other professional schools and attending college be similarly reduced? Yes and no.

The black students enrolled at the UT law school would have all gone to other schools; they all had the academic credentials to get into a less competitive institution—fair and square, without playing the race card. But there are no professional schools that are not selective, and those black students with the weakest grades and scores in the nation would probably be left having to choose another profession. On the other hand, the undergraduate picture would be very different. Some of the black students now at Michigan would instead find themselves at Western Michigan or Wayne State. But would any now enrolled have been left out altogether? A large majority of the more than three thousand colleges and universities in the United States essentially have open admissions. Sign up and you can go. And if you do well, even at virtually unknown places, the doors to jobs and further education will have been opened. Ward Connerly, a highly successful black businessman who was appointed to the University of California Board of Regents in 1993, started out at a community college. "That's not depriving kids of education," he has rightly said.⁷¹

TRUE EQUALITY

"The contest between white suburban students and minority inner-city youths is inherently unfair," the chancellor of the University of California at Berkeley, Chang-Lin Tien, said in the summer of 1995.⁷² It was not a very persuasive argument for the racial double standards he was defending. If inner-city youngsters are educationally deprived, surely the real solution—indeed the only effective and just solution—has to be one that attacks the problem of K-12 education directly. But in any case, most of the beneficiaries were not the inner-city youths upon whom Tien chose to focus; 30 percent of the black students in the 1994-1995 freshmen class came from families with annual incomes over \$70,000. In fact, the Berkeley admissions office, studying the question, found that preferences reserved only for students from low-income families would have reduced the black enrollment by two-thirds.⁷³ Relatively privileged students—by the measure of economic well-being—had acquired privileges on the basis of the color of their skin.

Affirmative action is class-blind. Students who fall into the category of protected minority will benefit whatever the occupation and income of their parents. As the *Boston Globe* has put it, "officials at even the most selective schools recruit minority scholars with the zeal of a Big 10 football coach." The overwhelming majority of four-year institutions buy expensive lists of minority students and their scores from the Educational Testing Service. Admissions counselors and a network of thousands of alumni comb the country, visiting schools and the special preparatory programs that Phillips Academy in Andover and other private high schools run. Some universities, like Tufts, start the

recruitment process in the elementary school years; others, like Boston College, have been known to bring minority students, all expenses paid, for a visit, complete with a chauffeured tour of the area.⁷⁴ And if that student can already afford the air fare and more? That's not relevant. Until 1996, when the policy was changed, the African-American student whom the Harvard Graduate School wanted automatically qualified for a Minority Prize Fellowship—even if that student was the son or daughter of a black millionaire.⁷⁵

It's not a process likely to encourage its beneficiaries to work hard in high school. The message is clear: color is the equivalent of good grades. If you don't have the latter, the former will often do. When the University of California regents decided in July 1995 to abolish racial and ethnic preferences in admissions, the executive director of a YWCA college-awareness program told students that the UC vote meant that their "application would be sent in with everybody else's—people who are on college tracks and are prepared." One of the minority students at the session, Jesley Zambrano, reacted at first with anger: "The schools are mostly run by white people. If they don't help us get in, how are we going to get in?" she asked. But then she answered the question herself: "I guess I have to work harder," she said.⁷⁶

That was exactly the point Martin Luther King had made in a speech Shelby Steele heard as a young student in Chicago. "When you are behind in a footrace," King had said, "the only way to get ahead is to run faster than the man in front of you. So when your white roommate says he's tired and goes to sleep, you stay up and burn the midnight oil."⁷⁷ As Steele went on to say, "academic parity with all other groups should be the overriding mission of black students. . . . Blacks can only *know* they are as good as others when they are, in fact, as good. . . . Nothing under the sun will substitute for this."⁷⁸ And nothing under the sun except hard work will bring about that parity, as King had said. Challenge the students academically rather than capitulate to their demands for dorms with an ethnic theme, Steele has urged universities. And dismantle the machinery of separation, break the link between difference and power. For as long as black students see themselves as *black* students—a group apart, defined by race—they are likely to choose power over parity.

Part of the secret is doubtless that students at Catholic schools are self-selected. But Paul T. Hill, Gail E. Foster, and Tamar Gendler, *High Schools with Character* (Santa Monica, Calif.: Rand Corporation, 1990), demonstrates that minority children from extremely disadvantaged backgrounds who were selected more or less at random to have their way paid to Catholic schools performed far better than their peers who remained in the public schools. Since it was not a strictly randomized selection procedure, the problem of selectivity cannot be dismissed altogether, but it is very hard to believe that it was the only factor at work.

183. A good brief review of the literature on minority achievement in the Catholic schools is provided in Sol Stern, "Why Catholic Schools Work," *City Journal*, Summer 1996, 14-26. Course-taking is obviously not the only secret to their success, as Stern argues.
184. Ford, *Reversing Underachievement*, 3, 22.

CHAPTER 14: THE HIGHER LEARNING

1. Laird Townsend, "Is Diversity Taking a Back Seat at Stanford?" *Journal of Blacks in Higher Education* 6 (Winter 1994-1995), 110. The Stanford decision was also discussed in Elwood Watson, "In Higher Education, Grade Inflation Has Not Helped Blacks," *Michigan Chronicle*, 27 June 1995, 6-A.
2. John H. Bunzel, *Race Relations on Campus: Stanford Students Speak Out* (Stanford, Calif.: Stanford Alumni Association, 1992).
3. SAT data for 1994 as given in Theodore Cross, "What If There Was No Affirmative Action in College Admissions? A Further Refinement of Our Earlier Calculations," *Journal of Blacks in Higher Education* 5 (Autumn 1994), 55.
4. Shelby Steele, *The Content of Our Character: A New Vision of Race in America* (New York: St. Martin's, 1990), 134. The two paragraphs that essentially summarize Steele are all based on chap. 7; without, we hope, putting words in his mouth, we have slightly reworded much of his discussion in order to make it fit better with our Stanford story.
5. Christopher Jencks and David Riesman, *The Academic Revolution* (Garden City, N.Y.: Doubleday, 1968), 428-433. For telling evidence about the quality of students in the southern black colleges in the mid-1960s, see James S. Coleman, *Equality of Educational Opportunity*, U.S. Department of Health, Education, and Welfare, Office of Education (Washington, D.C.: U.S. Government Printing Office, 1966), 345. In tests of verbal competence, nonverbal reasoning, mathematics, and science, no more than 5 to 15 percent of seniors in these schools had scores that were above the mean score for whites. Furthermore, on each of the tests black freshmen in southern colleges were at least a few points closer to the white mean than they were four years later, which suggests that these schools provided a learning environment inferior to that in the institutions attended by the typical white student.
6. Coleman, *Equality of Educational Opportunity*, 443.
7. Sar A. Levitan, William B. Johnston, and Robert Taggart, *Still a Dream: The Changing Status of Blacks Since 1960* (Cambridge: Harvard University Press, 1975), 84, 102; National Center for Education Statistics, *Historically Black Colleges and Universities, 1976-1990*, NCES 92-640 (Washington, D.C.: U.S. Government Printing Office, 1992), table 5.
8. It may not seem very surprising that the trends of the previous two decades have continued, but the point needs to be underscored because a myth that the rate of

black college attendance has declined gained considerable currency. That myth is based on the relatively brief downturn in just one of several possible measures of college attendance: in fact, the decline bottomed out in 1983 and black college attendance rates have been rising more or less steadily ever since. The primary source of the belief that black college attendance rates were declining is Gerald David Jaynes and Robin M. Williams, Jr. eds., *A Common Destiny: Blacks and American Society*, National Research Council, (Washington, D.C.: National Academy Press, 1989), 338-345. The discussion there relied entirely upon changes in the rates at which black high school graduates entered college directly, in the fall following graduation. This ignored all who took out time for work or military service before going back to school, a distorting influence unless it could be shown that the proportion of students who went to college later was the same for all racial groups. Further, the denominator in the rate was the number of high school graduates, not the entire age group, and this complicates intergroup comparisons. The proportion of blacks who were graduating from high school in these years was growing more rapidly than the proportion of whites graduating, arguably because "social promotions" were becoming more common. That many more black youths were acquiring high school diplomas meant that more of them were technically "eligible" to go to college. But that did not necessarily mean a corresponding increase in the number who were good college material, which the measure assumes. The rate of college attendance for the entire age group, not high school graduates alone, is in our view a better measure. See table 2 for these figures, which do not show any significant reversal of black prospects in the early 1980s. For a much more comprehensive discussion of these issues, which does not endorse the simple and alarmist conclusion that opportunities for blacks were plunging, see Daniel Koretz, *Trends in the Postsecondary Enrollment of Minorities* (Santa Monica, Calif.: Rand Corporation, 1990). Thomas J. Kane, *Black Educational Progress Since 1970: Policy Lessons*, Malcolm Wiener Center for Social Policy, Working Paper Series #H-90-8 (Cambridge: John F. Kennedy School of Government, Harvard University, 1990), 3-4, noted that the decline in black college entry in the early 1980s had been exaggerated, and argued correctly that the main problem for African Americans is not entry into college but persistence in college and completion of degree requirements. For more details, see Kane's *College Entry by Blacks Since 1970: The Role of Tuition, Financial Aid, Local Economic Conditions, and Family Background*, Malcolm Wiener Center for Social Policy Working Papers: Dissertation Series #D-91-3 (Cambridge: John F. Kennedy School of Government, Harvard University, 1991). Robert M. Hauser, "The Decline in College Entry Among African-Americans: Findings in Search of Explanations," in Paul M. Sniderman, Philip E. Tetlock, and Edward G. Carmines, eds., *Prejudice, Politics, and the American Dilemma* (Stanford, Calif.: Stanford University Press, 1993), 271-312, offers a more detailed and nuanced version of the analysis in *A Common Destiny*.

The argument that the rate of black college attendance has declined is still being advanced. See, e.g., a 1994 volume by economist Martin Carnoy, *Faded Dreams: The Politics and Economics of Race in America* (New York: Cambridge University Press), 149, which speaks in the present tense of "falling college enrollment levels" for blacks and other minorities. The author's discussion of "declining minority college enrollment" rests upon the authority of *A Common Destiny*, whose conclusions on this point were glaringly out of date by the time Carnoy's manuscript went to press. In an essay, "Why Aren't More African Americans Going to College?" *Journal of Blacks in Higher Education* 6 (Winter 1994-1995), 56, Carnoy claims that "the

proportion of young blacks enrolled in college fell in the late 1970s, as it did for whites. But white enrollment rates recovered in the 1980s and black rates did not." This claim is quite mistaken. College attendance numbers bounce around too much from year to year for short-term changes to be very meaningful. But in 1983 only 38.2 percent of recent black high school graduates went directly on to college, as compared with 55 percent of whites, for a black/white ratio of 69. Over the most recent three years for which data are available—1992–1994—the average figure for African Americans has been 51.5 percent, notably higher than in the early 1980s. The white average has been higher, too—63.9 percent—but that gives a black/white ratio of 81. Even by this imperfect measure, the negative trend of the late 1970s and early 1980s has been reversed; National Center for Education Statistics, *The Condition of Education*, 1996 (Washington, D.C.: U.S. Department of Education, 1996), 52.

9. Strictly speaking, the evidence, except that for 1995, has to do with completion of four or more years of college, not with the attainment of a degree, but the two are so closely related that it seems justifiable to speak as if completing four years was the same as graduating with a bachelor's degree. Until 1992 the Census and Current Population Survey questions about educational attainment were in terms of years of schooling completed. In 1992 the question was changed to one about degrees obtained. For a discussion of the relatively minor difference this made, see U.S. Bureau of the Census, Current Population Reports, P-20-476, *Educational Attainment in the United States: March 1993 and 1992* (Washington, D.C.: U.S. Government Printing Office, 1994), xii–xv.
10. U.S. Bureau of the Census, Current Population Reports, P-60-193, *Money Income in the United States: 1995* (Washington, D.C.: U.S. Government Printing Office, 1996), table 7.
11. Kane, *Black Educational Progress Since 1970*, 6.
12. The data are for the 301 NCAA Division I institutions, as given in "Graduation Rates of African-American College Students," *Journal of Blacks in Higher Education* 5 (Autumn 1994), 44–46. Some of those who had not taken their degree within six years may have still been enrolled and plugging away at it, but it cannot have been very many. The NCAA's assumption that a six-year span is long enough to measure completion and dropout rates seems sound.
13. National Collegiate Athletic Association, *1996 NCAA Division I Graduation-Rates Report* (Overland Park, Kans., 1996), 622.
14. John S. Brubacher and Willis Rudy, *Higher Education in Transition: A History of American Colleges and Universities, 1636–1976* (New York: Harper & Row, 1976), 236; National Center for Education Statistics, *Digest of Educational Statistics: 1995* (Washington, D.C.: U.S. Government Printing Office, 1995), 368, 381, 387.
15. *Digest of Educational Statistics: 1995*, 321.
16. Coleman, *Equality of Educational Opportunity*, 274–275.
17. Richard A. Lester, *Antibias Regulation of Universities: Faculty Problems and Their Solutions*, Report for the Carnegie Commission on Higher Education (New York: McGraw-Hill, 1974), 3–4; John E. Fleming, Gerald R. Gill, and David H. Swinton, *The Case for Affirmative Action for Blacks in Higher Education* (Washington, D.C.: Howard University Press, 1978), 118–119. The obligation was as a result of their status as a federal contractor, making them subject to executive order 11246; see chap. 15.
18. This statute made it an "unfair educational practice" for any educational institution to make "any written or oral inquiry concerning the race, religion, color, or national

- origins of a person seeking admission"; *Massachusetts General Laws Annotated*, vol. 22A (St. Paul, Minn.: West Publishing Co., 1996), 440.
19. Brian McGrory, "Affirmative Action: An American Dilemma," pt. 3, *Boston Globe*, 23 May 1995, 1.
 20. Lyndon B. Johnson, Speech at Howard University, 4 June 1965, in Lee Rainwater and William Yancey, *The Moynihan Report and the Politics of Controversy* (Cambridge: MIT Press, 1967), 126.
 21. Commission on Higher Educational Opportunity in the South, *The Negro and Higher Education in the South* (Atlanta: Southern Regional Education Board, 1967), 25-26.
 22. Thomas Sowell, "The Plight of Black Students," a searching 1974 essay reprinted in *Education: Assumptions vs. History: Collected Papers* (Stanford, Calif.: Hoover Institution Press, 1986), 136. The flood of criticism of affirmative action in higher education that has appeared since the publication of this paper and Sowell's 1972 volume, *Black Education: Myths and Tragedies* (New York, David McKay), offers nothing more than minor variations on what Sowell perceived when preferential policies were still taking shape.
 23. Grant Mindle, Kenyon D. Bunch, and Carolyn Nickolas, "Diversity on Campus: A Reassessment of Current Strategies," *Policy Studies Review* 12, (Spring-Summer 1993), 25-46.
 24. "Pursuing Diversity," *Boston Globe*, 1 February 1995, 1, 4. The *Globe* story, a typical puff piece supporting the university's plan, failed to include the population figures we provide, though one would think them highly relevant to the issue at hand. They are taken from U.S. Bureau of the Census, 1990 Census of Population, *General Population Characteristics: United States*, 1990-CP-1-1 (Washington, D.C.: U.S. Government Printing Office, 1992), table 253.
 25. David W. Murray, "Racial and Sexual Politics in Testing," *Academic Questions* 9 (Summer 1996), 10-17. In 1995 the College Board began to "recenter" the scores on its verbal and mathematics tests, which meant adding 76 points to the average verbal score and making other adjustments. Although the Board offered various technical reasons for the change, Murray argues that resulting compression of the scale will obscure distinctions in performance that are currently visible, and that this may have been the primary motivation. For outstanding students, as Diane Ravitch has put it, the change is like moving the fences in the baseball park 76 feet closer to home plate. There will be many more home-run hitters, and the great long-ball hitters will be indistinguishable from mediocre ones who presently hit a lot of long fly balls that are easy outs. For students who are below average, the lower your score the more you benefit from the recentering. Those with an old-scale score of 380 in math get 430 on the new scale, a nice 50-point gain; see Murray, "Racial and Sexual Politics," 14-16. All the scores we make use of in the present chapter are of the older, pre-recentered, type. Similar analysis of long-term trends in SAT scores will be impossible unless the Board continues to release detailed breakdowns using the old scale.
 26. Some 34 percent of high school graduates took the SATs in 1972; in 1995 it was 42 percent; National Center for Education Statistics, *The Condition of Education*, 1996, 239. If the rising participation rate meant that more students who were average or below average were taking the SATs, as seems likely, it becomes difficult to interpret changes in mean scores over the period.
 27. The 1995 SAT scores are somewhat inflated. The test was made easier in three ways: (a) students were given an extra half hour in which to do it; (b) they were allowed to

use a calculator; (c) the vocabulary test supplied contextual information that had not been given in previous SATs.

28. Theodore Cross, the editor of the *Journal of Blacks in Higher Education*, reports that a telephone survey by his staff found that the mean combined SAT score of freshmen in these twenty-five schools was 1,291; "What if There Was No Affirmative Action in College Admissions? A Refinement of Our Earlier Calculations," *Journal of Blacks in Higher Education* 5 (Autumn 1994), 53.
29. "College-Bound Black Students are Slowly Advancing in Advanced Placement Tests," *Journal of Blacks in Higher Education*, 11 (Spring 1996), 6-9.
30. Calculated from the relevant pages of 1996 *NCAA Report*.
31. This should be self-evident, but it may not be these days. If the Asian-American share of enrollments at an institution is six times their share of the population at large, as it is today at Columbia and Stanford, for example, other groups must inevitably have considerably less than their share, because admissions is a zero-sum game. Diversity and meritocracy, in this instance and many others, are conflicting goals.
32. Theodore Cross, "Why the Hopwood Ruling Would Remove Most African Americans From the Nation's Most Selective Universities," *Journal of Blacks in Higher Education* 11 (Spring 1996), 66-70. Cross calculated racial distributions for those scoring 650 or better on either the verbal or math tests. He also made some allowance for economic disadvantage and for "strong personal qualities," but is unclear about precisely how this was done. The calculation seems essentially of the same kind as that provided in table 4.
33. "College Presidents Reply to *The Wall Street Journal*," *Journal of Blacks in Higher Education* 11 (Spring 1996), 12.
34. Cross, "What If There Was No Affirmative Action?," 53n. And there is a wealth of evidence that SATs are accurate predictors of black college performance. See, for example, Robert Klitgard, *Choosing Elites* (New York: Basic Books, 1985), 160-165, 187-188. "One might wish that standardized tests underestimated the later performance of blacks," Klitgard concludes, but at elite institutions black students "typically do worse" than "whites do with the same test scores, perhaps one to two thirds of a standard deviation worse." Klitgard estimates that to make the prediction of black college grades precisely correct it is necessary to subtract 240 points on the combined SAT. Among black and white students with the same high school grades, blacks will perform as well in college as whites with an SAT score that is 240 points lower. No college in the country demands higher test scores of black applicants; most accept black applicants with scores as much as 240 points below those of whites and Asian Americans. SAT scores are better predictors of college performance than high school grades for black students but not for whites or Asians; Stanley Sue and Jennifer Abe, *Predictors of Academic Achievement Among Asian Students and White Students* (New York: College Entrance Examination Board, 1988), 1. For data indicating that standardized tests predict the performance of African-American students enrolled in historically black colleges even more accurately than they do in the case of black students in predominantly white institutions, see Jaqueline Fleming, "Standardized Test Scores and the Black College Environment," in Kofi Lomotey, ed., *Going to School: The African-American Experience* (Albany: State University of New York Press, 1990), 143-152. It is particularly striking that these supposedly biased instruments, allegedly devised by whites to keep blacks down, work so well for African-American students at predominantly black institutions. It is also striking that an experimental program designed to improve the performance of minority freshmen at

the University of Michigan was deemed successful because the first-semester grades of blacks "did not fall behind those earned by white students with similar standardized test scores," as had usually been the case in the past. That black students needed a special program to perform as well as whites with comparable SAT scores plainly indicates that such tests are not biased against blacks, as is commonly charged. They are rather biased in favor of blacks, in the sense that they lead us to expect them to perform better in college than in fact they do without programs like that at Michigan; Denise K. Magner, "Professor Takes Aim at Blacks' Racial Vulnerability," *Chronicle of Higher Education*, 1 April 1992, A5.

35. National Center for Education Statistics, "Making the Cut: Who Meets Highly Selective College Entrance Criteria?" *Statistics in Brief*, NCES 95-732 (Washington, D.C.: U.S. Government Printing Office, 1995), table 1.
36. "College Presidents Reply to *Wall Street Journal*," 12.
37. Thus, there was a national stir in 1991, when Timothy McGuire, a law student employed part-time in the admissions office at the Georgetown University Law School, used his inside knowledge to write an article charging that African-American students at his school had notably weaker academic qualifications than their white classmates. It created national news. Defenders of the policy claimed that McGuire was disseminating "incomplete and distorted information" that would "renew the long-standing and intellectually dishonest myth" that black students were "less qualified than their white counterparts to compete in school . . ."; "Degrees of Success," *Washington Post*, 8 May 1991, A31. None of those who complained of McGuire's allegedly "incomplete and distorted" information offered any data to contradict his double-standards point, however. Of course the policy could have been defended in a variety of ways, but the first step should have been a candid acknowledgment that McGuire had his facts right.
38. Bob Zelnick, *Backfire: A Reporter's Look at Affirmative Action* (Chicago: Henry Regnery, 1996), chap. 9.
39. These data are for 1989 rather than 1988 freshmen, but that seems close enough; "Affirmative Action Under Attack on Campus Where It Worked," *New York Times*, 4 June 1995, A22.
40. Robert Lerner and Althea K. Nigai, *Racial Preferences in Undergraduate Enrollment at the University of California, Berkeley, 1993-1995: A Preliminary Report* (Washington, D.C.: Center for Equal Opportunity, 1996), charts 4 and 5.
41. Thus, at the University of Virginia in 1994, the average alumni child who was admitted had a combined SAT score that was just 25 points below that of nonalumni children; blacks had scores that were 196 points below those of whites. Alumni preference was stronger at William and Mary, a private school with a presumably greater need to encourage alumni loyalty to enhance fund-raising. But even at William and Mary alumni status counted for only 58 points, while the premium given to black applicants amounted to 197 points. At Virginia, being an African American helped your chances of admission eight times as much as having a parent who had attended the school; at William and Mary it increased them more than three times as much; Philip Walzer, "Diversity's Cost on Campus," *Hampton Roads Ledger-Star*, 6 June 1995, A1, A6. At Harvard, the sons and daughters of alumni who are admitted have average scores just 35 points below those of nonalumni children, so alumni preference is about a third of the magnitude of the affirmative action preference for blacks; Zelnick, *Backfire*, 142. Klitgard reports that in the early 1980s being from a disadvantaged minority group increased the chances of admission, holding other

- variables constant, by 53 percent at Williams, 51 percent at Bucknell, and 46 percent at Colgate. No other factor came close to race in importance, except having an alumni parent at Bucknell, which improved admission chances by 47 percent; Klitgard, *Choosing Elites*, 46.
42. These and other figures cited in the paragraph are from "Black Graduation Rates at Second-Tier Public Universities, *Journal of Blacks in Higher Education*, 5 (Autumn 1994), 45. The pages of the journal are a treasure trove for anyone seeking information and a wide range of opinions on this topic.
 43. Ibid.; "The Status of Black Faculty at the Flagship State Universities," *Journal of Blacks in Higher Education*, 12 (Summer 1996), 15.
 44. J. Harvie Wilkinson III, *From Brown to Bakke: The Supreme Court and School Integration, 1954-1978* (New York: Oxford University Press, 1979), 256-258.
 45. Allan P. Sindler, *Bakke, DeFunis, and Minority Admissions: The Quest for Equal Opportunity* (New York: Longman, 1978), 63-67.
 46. Ibid., 214-215.
 47. Ibid., 222-235.
 48. Ibid., 241-245.
 49. *Regents of the Univ. of Calif. v. Bakke*, 438 U.S. 265, 407 (1978).
 50. 438 U.S. at 355.
 51. 438 U.S. at 325, 365.
 52. 438 U.S. at 307, 313, 323.
 53. 438 U.S. at 316-317.
 54. Guidelines given to interviewers for the Harvard Medical School stated that "the minimum goal should be representation of minority groups in the student body at least equal to the proportion of those minority groups in the population of the U.S.A. at large"; quoted in Klitgard, *Choosing Elites*, 40. In 1969 the Harvard Business School voted to admit all minority applicants whose records indicated that they had no more than one chance in four of flunking out. After a few years this practice was abandoned and replaced with a goal of 10-12 percent minority representation, partly out of a fear that the business world would come to think that Harvard Business School awarded two kinds of degrees—white degrees and black degrees; Klitgard, *Choosing Elites*, 43-44. Bernard D. Davis, "Academic Standards in Medical Schools," *New England Journal of Medicine* 294 (13 May 1976), 1118-1119, points to the negative consequences of lowered standards at the Harvard Medical School.
 55. 438 U.S. at 378, 323-324.
 56. 438 U.S. at 318.
 57. 438 U.S. at 375.
 58. 438 U.S. at 402.
 59. 438 U.S. at 412-414, 418.
 60. 438 U.S. at 319, n. 53.
 61. The phrasing of a typical notice was given to the *Los Angeles Times* by Professor Stephen R. Barnett, who had been on the Boalt Hall faculty since the early 1970s. Jean Merl and William Trombley, "UC Law School Violates Civil Rights, U.S. Says," *Los Angeles Times*, 29 September 1992, A1.
 62. Ruben Navarrette, Jr., "Berkeley's Awkward Two-Step to Ensure a Racially Diverse Campus," *Los Angeles Times*, 11 October 1992, 8.
 63. The quotations are from William Trombley, "Colleges Fear Affirmative Action Set-back," *Los Angeles Times*, 30 September 1992, A3.
 64. *Hopwood v. Texas*, 78 F. 3d 932, 932-937 (1996).

65. *Hopwood v. Texas*, 78 F. 3d at 937.
66. *Hopwood v. Texas*, 78 F. 3d at 962.
67. 438 U.S. at 402.
68. U.S. Department of Justice, Brief Supporting Petition for a Writ of Certiorari in *Hopwood v. Texas*.
69. Scott Jaschik and Douglas Lederman, "Appeals Court Bars Racial Preference in College Admissions," *Chronicle of Higher Education*, 29 March 1996, A27.
70. Jeffrey Rosen, "Is Affirmative Action Doomed?" *New Republic*, 17 October 1994, 25.
71. Marc Fisher, "Equal and Opposite Reaction," *Washington Post*, 29 October 1996, E1.
72. Chang-Lin Tien, "Perspective on Affirmative Action," *Los Angeles Times*, 18 July 1995, B9.
73. Robert Bruce Slater, "Why Socioeconomic Affirmative Action in College Admissions Works Against African Americans," *Journal of Blacks in Higher Education* 8 (Summer 1995), 59.
74. Brian McGrory, "Affirmative Action: An American Dilemma," pt. 3, *Boston Globe*, 23 May 1995, 1. The director of student search services for the Educational Testing Service told the *Globe* that more than 1,280 of the country's 1,600 public and private four-year colleges and universities request minority-specific lists.
75. Elena Newman, "Harvard's Sins of Admission," 9 October 1995.
76. Suzanne Espinosa Solis, "Teens' Strong Views on UC Regents' Vote," *San Francisco Chronicle*, 26 July 1995, A1. Jesley Zambrano was a Latino student, but her point obviously applies to any minority student currently protected by affirmative action admissions.
77. Steele, *Content of Our Character* 138.
78. *Ibid.*, 147.

CHAPTER 15: JOBS AND CONTRACTS

1. Louis Freedberg, "The Enforcer," *San Francisco Chronicle*, 4 June 1995, 1. The Office of Federal Contract Compliance Programs (OFCCP) has the power to conduct a "compliance review"—an investigation into a corporation's hiring record—which can be either a random audit or the consequence of a complaint. The settlements in the Marriott Hotel and UC-San Diego cases were the result of just such compliance reviews. In congressional testimony in 1995, OFCCP director Shirley Wilcher stated that the agency was then finding violations in 73 percent of the more than 4,000 compliance reviews it conducted each year; James Bovard, "Here Comes the Goon Squad," *American Spectator*, July 1996, 36. Our research assistant, Kevin Marshall, prepared a first draft of portions of this chapter.
2. Christopher Edley, Jr., and George Stephanopoulos, "Affirmative Action Review: Report to the President," 19 July 1995, 67, n. 85.
3. "Minority Enterprise: Fat White Wallets," *Economist*, 27 November 1993, 29.
4. Quoted in Justice William Rehnquist's dissent in *United Steel Workers of America v. Weber*, 443 U.S. 193 (1979) at 242, n. 20.
5. Alfred W. Blumrosen, *Black Employment and the Law* (New Brunswick, N.J.: Rutgers University Press, 1971), 53.
6. *Ibid.*, 58.
7. Alfred W. Blumrosen, "Strangers in Paradise: *Griggs v. Duke Power Co.* and the