

In The  
**Supreme Court of the United States**

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BILL SCHUETTE, Michigan Attorney General,

*Petitioner,*

v.

COALITION TO DEFEND AFFIRMATIVE  
ACTION, INTEGRATION AND IMMIGRANT  
RIGHTS AND FIGHT FOR EQUALITY BY  
ANY MEANS NECESSARY (BAMN), et al.,

*Respondents.*

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**On Writ Of Certiorari To The  
United States Court Of Appeals  
For The Sixth Circuit**

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**BRIEF OF CALIFORNIA SOCIAL SCIENCE  
RESEARCHERS AND ADMISSIONS EXPERTS AS  
AMICI CURIAE IN SUPPORT OF RESPONDENTS**

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## INTEREST OF THE *AMICI CURIAE*

The undersigned social scientists and scholars submit this brief as *amici curiae* in support of respondents.<sup>1</sup> *Amici curiae* are social scientists and scholars who have extensively studied issues related to access, diversity and race relations in K-12 and postsecondary institutions.<sup>2</sup> Several *amici* have served on, or are currently serving on, undergraduate and graduate admissions committees and have worked on research and policy directly related to the issues addressed in this brief. Michigan's Ballot Proposal 2 – like California's Proposition 209 before it<sup>3</sup> – amended the state constitution to ban the use of race-conscious admissions at state universities. *Amici*

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<sup>1</sup> Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity other than *amici curiae* has made a monetary contribution to the preparation or submission of this brief. The written consents of the parties to the filing of this brief have been filed with the Clerk. Work on this brief was coordinated at the Ralph J. Bunche Center for African American Studies at UCLA.

<sup>2</sup> Each of the foregoing parties is an individual and not a corporation. None of the foregoing parties has any financial interest in this matter. Each of the foregoing parties is appearing in an individual capacity and does not speak for or represent the views of the university that employs him or her.

<sup>3</sup> California Proposition 209 was passed by voter initiative (54 percent in favor, 46 percent opposed) in 1996. But white voters carried the initiative, with 59 percent voting in favor. Only 42 percent of Asian Americans, 37 percent of Latinos, and 18 percent of African Americans supported it.

have an interest in presenting to the Court the 16 years of empirical data that documents the detrimental effects California Proposition 209 has had on underrepresented minorities<sup>4</sup> (URMs) in the state who seek access to the University of California (UC).

Although Proposition 209 also has constrained the access of underrepresented minorities to the UC's transfer student,<sup>5</sup> graduate,<sup>6</sup> and faculty<sup>7</sup> ranks, this

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<sup>4</sup> For the purposes of this brief, "underrepresented minorities" include African Americans, Chicana/os/Latina/os, and Native Americans/American Indians.

<sup>5</sup> Underrepresented minorities accounted for 27 percent of all transfer students admitted to the UC system in 2012. University of California Office of the President, "Final Summary of Transfer Applications, Admissions, and Enrollment, Fall 1989-2012," *available at* <http://www.ucop.edu/news/factsheets/2012/flow-trans-ca-12.pdf> (last modified Mar. 2013).

<sup>6</sup> In fall 2008, only 9 percent of all graduate academic students were underrepresented minorities in the UC system. University of California Regents, *University of California Diversity Annual Accountability Sub-Report* at 12 (Sept. 2010), *available at* <http://data.universityofcalifornia.edu/faculty-staff/diversity/white-papers/Diversity-Accountability-Report-2010.pdf>. *See also* University of California Regents, *Report of the Work Team on Graduate and Professional School Diversity: A Subcommittee of the University of California Regents Study Group on University Diversity*, at iii, 2, 3 (Sept. 2007), *available at* <http://www.universityofcalifornia.edu/diversity/documents/Grad-ProfWorkTeam.pdf>.

<sup>7</sup> Underrepresented minorities accounted for only 8.6 percent of all UC ladder- and equivalent-rank faculty in fall 2011. University of California Office of the President, *Annual Accountability Sub-Report on Diversity at the University of California*, at 2, 4 (Jan. 2013), *available at* <http://regents.universityofcalifornia.edu/regmeet/jan13/e1.pdf>.

brief focuses primarily on the negative effect on freshman admissions. It pays particular attention to the case of African American students in California, since blacks constitute the largest minority group in Michigan burdened by Proposal 2. The empirical evidence in this brief is relevant to the Court's determination of whether Proposal 2 violates the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution, U.S. Const. amend. XIV, § 1. The evidence, which pertains to admissions at the two most selective UC campuses, is also relevant to admissions outcomes at the flagship institutions in Michigan because of similarities in the admissions processes in the two systems and because of the educational inequality prevalent in both states.



### **SUMMARY OF ARGUMENT**

Prior to the University of California Regents' adoption of a ban on race-conscious admissions in 1995, called SP-1,<sup>8</sup> the University of California campuses embraced a variety of traditional affirmative action programs. These programs were designed to achieve the UC's mission of producing future state leaders by enrolling excellent student bodies that reflected the state's increasingly diverse population.

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<sup>8</sup> Standing Policy 1 (SP-1) and Standing Policy 2 (SP-2) eliminated race-conscious policies in the University of California admissions and hiring, respectively.

They also were effective policy tools for furthering the interests of qualified underrepresented minorities who – because of virulent K-12 inequities and the extreme segregation of schools by race and poverty in California – would have been otherwise undervalued by admissions schemes that emphasized small, and often insignificant, differences in grade point averages and standardized test scores.

Following the passage of Proposition 209,<sup>9</sup> however, URM access to the most selective and desirable campuses immediately plummeted and has remained suppressed.<sup>10</sup> This is significant because attending more prestigious institutions provides graduates with significantly increased opportunities for future success.<sup>11</sup> The UC Regents, who had reaffirmed the

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<sup>9</sup> The fall 1998 freshman class at the University of California was the first to reflect the ban on affirmative action established by SP-1, SP-2, and Proposition 209.

<sup>10</sup> In contrast to Petitioner's brief, which focuses primarily on URM enrollment system-wide, this brief focuses on access and enrollment to the most selective UC campuses. That is, the most pronounced effect of Proposition 209 has been to redistribute URMs throughout the UC system, such that URMs have been underrepresented much more dramatically at the two most prestigious campuses since implementation of the ban on race-conscious admissions. See Ralph J. Bunche Center for African American Studies at UCLA, "Gaming the System: Inflation, Privilege, and the Under-Representation of African American Students at the University Of California," *Bunche Research Report*, vol. 4, no. 1 Jan. 2008.

<sup>11</sup> See Mark Hoekstra, "The Effect of Attending the Flagship State University on Earnings: A Discontinuity-Based Approach," *91 Review of Econ. & Statistics* 717, 717-24 (2009); Ann L. Mullen, (Continued on following page)

university's commitment to diversity,<sup>12</sup> rescinded their own ban on race-conscious admissions in 2001, but were powerless to do anything about Proposition 209.

Contrary to Petitioner's claims of a "warming effect,"<sup>13</sup> subsequent reforms of UC admissions policy have been constrained by Proposition 209 and thus have failed to reverse a pattern in which URM students are being disproportionately denied access to the top UC campuses. Nonetheless, Proposition 209 advocates have challenged these facially race-neutral reforms at every turn, creating a "*chilling effect*" that has limited administrators' ability to experiment with alternative admissions schemes that might produce excellent

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Kimberly Goyette, & Joseph A. Soares, "Who Goes to Graduate School? Social and Academic Correlates of Educational Continuation after College," 76 *Sociology of Educ.* 143, 143-69 (2003).

<sup>12</sup> In 2001, the UC Regents reaffirmed the university's commitment to diversity with the following mission statement: "[T]he University shall seek out and enroll, on each of its campuses, a student body that demonstrates high academic achievement or exceptional personal talent, and that encompasses the broad diversity of backgrounds characteristic of California." University of California Regents, "Regents Policy 4401: Policy on Future Admissions, Employment, and Contracting (Resolution Rescinding SP-1 and SP-2), Approved May 16, 2001," *available at* <http://www.universityofcalifornia.edu/regents/policies/4401.html> (last modified Feb. 4, 2010).

<sup>13</sup> For a further challenge to Petitioner's claims, *see* William C. Kidder, "Misshaping the River: Proposition 209 and Lessons for the *Fisher* Case," 39 *J. of College & University Law* 53, 53-126 (2013).



freshman classes *without* placing a special burden on underrepresented minorities.

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## ARGUMENT

### I. THE MYTH OF MERITOCRACY: WHY “THE NUMBERS” FAIL AS OBJECTIVE MEASURES OF “MERIT.”

When viewed in the context of rampant racial inequities in K-12 education, traditional measures of academic “merit,” such as standardized test scores and grade point average (GPAs), may be more accurately understood as measures of racial and economic privilege in America than as objective measures of “merit.” Racial inequalities run rampant in K-12 education,<sup>14</sup> confounding what many consider unbiased and objective measures of academic “merit” with the continuing effects of racial and socioeconomic inequality in America. Public schools in California today are racially segregated and unequal. On average, schools with majority white and Asian American populations have better resources, more-qualified teachers, and more college preparatory and honors courses than majority African American and Latina/o

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<sup>14</sup> See UCLA Institute for Democracy, Education, and Access and University of California All Campus Consortium on Research for Diversity, *California Educational Opportunity Report: The Racial Opportunity Gap* (2007), available at <http://idea.gseis.ucla.edu/publications/eor-07/StateEOR2007.pdf>.

schools.<sup>15</sup> Segregated and unequal schooling conditions prevent a large number of African Americans and Latina/os in California from accessing college, particularly the most elite campuses like those in the University of California. These inequities make it virtually impossible for many underrepresented minorities to compete on equal footing in the “college admissions game” with their white and Asian American counterparts, students who typically enjoy better schooling conditions and greater resources.

For these reasons, underrepresented minority applicants to the UC system, who present marginally lower GPAs and test scores than their majority counterparts, have not necessarily devoted less effort towards their studies, they do not necessarily have less academic potential, nor are they necessarily less intelligent. More often than not, these underrepresented students are trapped in relatively disadvantaged contexts and are achieving as much as their environments will allow. Traditional indicators of academic “merit” like SAT and GPA scores, considered in

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<sup>15</sup> See Ralph J. Bunche Center for African American Studies at UCLA, “Gaming the System,” *supra* note 10; Isaac Martin, Jerome Karabel, & Sean W. Jaquez, “High School Segregation and Access to the University of California,” 19 *Educ. Policy* 308, 308-30 (2005); Robert Teranishi, Walter Allen, & Daniel Solórzano, “Opportunity at the Crossroads: Racial Inequality, School Segregation, and Higher Education in California,” 106 *Teachers College Record* 2224, 2224-45 (2004); The Tomás Rivera Policy Institute, *Equity in Offering Advanced Placement Courses in California High Schools, 1997-2003: Gaining or Losing Ground?* (2006), available at [http://www.trpi.org/PDFs/ap\\_2006.pdf](http://www.trpi.org/PDFs/ap_2006.pdf).

isolation, mask these realities and thus conflate excellence with privilege. Moreover, they only measure a narrow range of the attributes many colleges and universities claim to value. That is, these measures often fail to capture critical thinking skills, creativity, tenacity, leadership skills, and other attributes essential to student success in college and, more importantly, to their efforts to make a mark on the world after graduation.

To be sure, underrepresented minority applicants to the UC system present stellar GPAs as a group, despite the challenges that many of these students have had to overcome in their K-12 schooling contexts. In fact, the average GPAs of URM applicants to UC Berkeley and UCLA in 2009 were 3.79 and 3.77, respectively (compared to 3.93 and 3.91, respectively, for white applicants).<sup>16</sup> While thousands of URM applicants to UC are admitted to prestigious private universities throughout America each year,<sup>17</sup> thousands more are denied admission to the top UC

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<sup>16</sup> University of California Office of the President, UC StatFinder, <http://statfinder.ucop.edu> (last accessed Oct. 24, 2011). Note: UC StatFinder is no longer operational.

<sup>17</sup> See Ralph J. Bunche Center for African American Studies at UCLA, "Merit Matters: Race, Myth & UCLA Admissions: 2006 CAPAA Findings," *Bunche Research Report*, vol. 3, no. 3, Sept. 2006; Susan A. Wilbur, "Investigating the College Destinations of University of California Freshman Admits," in *Equal Opportunity in Higher Education: The Past and Future of California's Proposition 209* at 63-82 (Eric Grodsky & Michal Kurlaender, eds. 2010).

campuses,<sup>18</sup> largely because of the University's inability to consider race as one factor in admissions, which results in an over-reliance on standardized test scores as a measure of merit.

Yet, standardized test scores are a function of racial and ethnic disparities. Currently (and historically), a national test-score gap exists, with African Americans and Latina/os presenting lower scores on average than their white and Asian American counterparts.<sup>19</sup> SAT I scores are strongly correlated with school "Academic Performance Index" (API),<sup>20</sup> parent education, family income, and the segregation and poverty levels of schools. In other words, SAT I scores are related to both the characteristics of a student's high school, and his or her socioeconomic status.<sup>21</sup>

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<sup>18</sup> Of the nearly 13,000 URMs who applied to UCLA in 2009, for example, almost 100 percent were UC eligible but only 1,999 were admitted to the campus. University of California Office of the President, UC StatFinder, <http://statfinder.ucop.edu> (last accessed Oct. 24, 2011).

<sup>19</sup> William G. Bowen & Derek Bok, *The Shape of the River* (1998); Christopher Jencks & Meredith Phillips, eds., *The Black-White Test Score Gap* (1998).

<sup>20</sup> API rankings range from 1 (low) to 10 (high), and show how California schools measure up against one another based on test performance. Schools with low API scores often have non-white and non-Asian majority student populations and are under-resourced.

<sup>21</sup> See Saul Geiser & Maria Santelices, "Validity of High School Grades in Predicting Student Success Beyond the Freshman Year: High School Records vs. Standardized Tests as Indicators of Four-Year College Outcomes," *Research & Occasional*  
(Continued on following page)

Because African Americans and Latina/os are more likely than their white and Asian American counterparts to attend low API schools and reside in the lower socioeconomic strata of society,<sup>22</sup> it should come as no surprise that these groups score lower on this traditional measure of a student's potential for academic achievement.

Another reason the SAT I fails as a valid measure of academic ability is that it measures skills that are not directly influenced by innate abilities or school curriculum.<sup>23</sup> Indeed, the standardized exam does a poor job of predicting how students will actually perform after they are admitted to college. An influential study by the UC Office of the President found that the SAT I predicts only 13 percent of the variance in UC freshmen GPA.<sup>24</sup> This means that 87 percent of the variance in UC first-year college grades is *not* explained by how students performed on the

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*Paper Series: CSHE*, no. 6 (2007), available at [http://cshe.berkeley.edu/publications/docs/ROPS.GEISER.\\_SAT\\_6.13.07.pdf](http://cshe.berkeley.edu/publications/docs/ROPS.GEISER._SAT_6.13.07.pdf).

<sup>22</sup> UCLA Institute for Democracy, Education, and Access and University of California All Campus Consortium on Research for Diversity, *California Educational Opportunity Report*.

<sup>23</sup> See Claude Steele, University of Admissions Lawsuits, "The Compelling Need for Diversity in Higher Education," expert reports prepared for *Gratz, et al. v. Bollinger, et al.*, No. 97-75231 (E.D. Mich.) and *Grutter, et al. v. Bollinger, et al.*, No. 97-75928 (E.D. Mich.), Jan. 1999, available at <http://www.vpcomm.umich.edu/admissions/research/>.

<sup>24</sup> Saul Geiser & Roger Studley, "UC and the SAT: Predictive Validity and Differential Impact of the SAT I and SAT II at the University of California," 8 *Educ. Assessment* 1, 1-26 (2002).

SAT I. Nationally, according to one study, the SAT I alone predicts only about 18 percent of the variation in freshman GPA,<sup>25</sup> which suggests that those with higher SAT I scores will not necessarily perform better in college than those with lower SAT I scores.

In fact, the study found that a score difference as large as 300 points makes very little difference in student performance as measured by first-year college GPA. Another study found that a 100-point increase in an SAT I score might only raise a student's predicted GPA by one-tenth of a grade point.<sup>26</sup> Thus it cannot be assumed that African Americans and Latina/os who have lower test scores, largely due to the disadvantages they face in the K-12 context, will necessarily perform worse in college than their majority counterparts who attain higher SAT I scores. Yet, in the absence of race-conscious admissions, these underrepresented minorities continue to be disproportionately denied admission to the most selective UC campuses, largely due to the weight placed on standardized test scores.

The SAT I is an even poorer predictor of college performance for African Americans than it is for the general population. For African American freshmen

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<sup>25</sup> Steele, "The Compelling Need," *supra* note 23.

<sup>26</sup> Fredrick E. Vars & William G. Bowen, "Scholastic Aptitude Test Scores, Race and Academic Performance in Selective Colleges and Universities," in *The Black-White Test Score Gap* 457-79 (Christopher Jencks & Meredith Phillips, eds., 1998).

in the UC system, the SAT I only predicts 10 percent of the variation in their GPAs.<sup>27</sup> Thus, a whopping 90 percent of the variation in how well African Americans perform during their first year of college on a UC campus is left unexplained by their performance on the SAT I. Not only is the SAT I a weak measure in terms of gauging student academic potential, but its conflation of achievement and privilege (or the lack thereof) actually works to reproduce inequality when it is used to exclude otherwise deserving URMs.

Moreover, African American students are particularly vulnerable to being underestimated and mislabeled by standardized tests like the SAT. Research shows that African Americans often earn lower SAT scores due to “stereotype-threat,”<sup>28</sup> the anxiety or stress triggered by the fear that one might fulfill or be associated with a relevant stereotype. Research has found that African Americans taking standardized exams such as the SAT often experience anxiety or fear that their performance on the exam will confirm the virulent American stereotype that African Americans are intellectually inferior. This anxiety

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<sup>27</sup> See Geiser & Studley, “UC and the SAT.”

<sup>28</sup> See Claude Steele, “Race and Schooling of Black Americans,” *The Atlantic Monthly* vol., 269, no. 4, 1992, at 68-78; Claude Steele, “A Threat in the Air, How Stereotypes Shape Intellectual Identity and Performance,” *52 Am. Psychologist* 613, 613-29 (1997); Claude Steele & Joshua Aronson, “Stereotype Threat and the Test Performance of Academically Successful African Americans,” in *The Black-White Test Score Gap* 401-27 (Christopher Jencks & Meredith Phillips, eds., 1998).

and fear, like a self-fulfilling prophecy, makes it more likely that these students will falter on exams by interfering with their concentration, which in turn often results in depressed test scores.

Racial inequalities in K-12 education also work to diminish the utility of GPA as an objective measure of “merit.” At the University of California’s top campuses, a major factor in the admissions decision is the number of Advanced Placement (AP) courses an applicant has completed. Students who successfully complete AP courses are awarded an additional grade point, which means that a ‘B’ grade in an AP course, for example, would be recorded as an ‘A’ grade, and so on. This treatment of AP courses explains why many students who take them are able to earn GPAs in excess of 4.0. In fact, the *average* GPA of students admitted to UC Berkeley and UCLA has far exceeded 4.0 in recent years.

Yet, there is a great disparity in access to AP courses in California public high schools that runs along racial lines. A recent study found that of the state’s top 50 high schools ranked by AP course offerings, whites made up 49 percent of the student population at these schools, Asian Americans made up 29 percent, Latina/os made up just 16 percent, and African Americans only 5 percent<sup>29</sup> – despite the fact

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<sup>29</sup> Daniel Solórzano & Armida Ornelas, “A Critical Race Analysis of Advance Placement Classes and Selective Admissions,” *High School Journal*, vol. 87, 2004, at 15-26.



that these two latter groups have accounted for nearly half of all California high school graduates in recent years. In other words, whites and Asian Americans are significantly overrepresented at these AP-rich public high schools in California, while African Americans and Latina/os are woefully underrepresented. The racial disparities only increase when we consider what private high schools have to offer and the degree to which URM students are less likely to gain access to these schools. In this sense, the “AP bump” rewarded in UC admissions schemes functions like affirmative action for white and Asian American applicants, as these applicants are much more likely than their URM counterparts to attend high schools featuring a rich menu of the courses.

## **II. PROPOSITION 209’S BAN ON AFFIRMATIVE ACTION HAS WORKED TO SEVERELY DECREASE THE PRESENCE OF UNDER-REPRESENTED MINORITIES AT UC BERKELEY, UCLA, AND IN GRADUATE SCHOOLS.**

Students become *eligible* for University of California admission by meeting the established minimum requirements for coursework, GPA, and standardized test scores.<sup>30</sup> These minimum requirements comprise

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<sup>30</sup> For the 2013 class, minimum eligibility requirements for California residents included a GPA of 3.0; completion of 15 college-preparatory high school “a-g” courses, a) history/social science (2 years required); b) English (4 years required); c) math  
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a demanding set of criteria, as the state's Master Plan for Higher Education specifies that the UC eligibility pool shall contain only the top one-eighth (12.5 percent) of graduating seniors. It is important to note that most of the growth in the eligibility pool in recent years can be attributed to underrepresented minorities.<sup>31</sup> Underrepresented minority applicants to UC are thus highly qualified, *not* students unprepared for the demands of work at top universities.

But while eligibility guarantees admission to the UC *system*, it does not guarantee admission to any of the eight campuses that currently use *selectivity* measures. Selectivity refers to an additional set of criteria that competitive campuses use to choose students for admission amongst all applicants who meet minimum UC eligibility requirements. In practice, these additional criteria specify the types of inflated

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(3 years required); d) laboratory science (2 years required); e) foreign language (2 years required); f) visual and performing arts (1 year required); and g) college preparatory electives (1 year required). In addition, students must submit scores from the ACT Plus Writing *or* SAT Reasoning Test.

<sup>31</sup> The California Postsecondary Education Commission reported that in 2007 the UC eligibility pool was becoming more URM heavy. That is, while white numbers in the UC eligibility pool were down 13 percent and Asian American up only 1 percent since the 2003 report, Latina/o numbers were up 18 percent and black numbers 7 percent. The California Postsecondary Education Commission, *College-Going and University Eligibility: Differences between Racial/Ethnic Groups*, Mar. 2009, available at <http://www.cpec.ca.gov/completereports/2009reports/09-11.pdf>.

numbers (*i.e.*, GPAs and standardized test scores) that, as we argued above, K-12 inequities typically prevent URM students from amassing.

Although the UC system officially has no “flagship” campus, UC Berkeley and UCLA are generally regarded as the two most prestigious campuses, each perennially ranked in the top five of all U.S. public universities.<sup>32</sup> The majority of all UC applicants (who may apply to more than one UC campus) apply to UC Berkeley and/or UCLA because of their global reputations and the doors that degrees from either campus are likely to open.<sup>33</sup> Despite the fact that most applicants to UCLA and UC Berkeley are UC eligible, the campuses each admitted only 20 to 21 percent of their total applicants in 2013.<sup>34</sup>

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<sup>32</sup> In 2013, *U.S. News and World Report* ranked UC Berkeley as the top public university in America, followed by UCLA and the University of Virginia, which were tied for the number 2 position. *U.S. News and World Report*, “2013 Best Colleges Ranking: Top Public Schools,” available at <http://colleges.usnews.rankingsandreviews.com/best-colleges/rankings/national-universities/top-public> (accessed Aug. 18, 2013).

<sup>33</sup> See, e.g., Ronald Ehrenberg, “Method or Madness? Inside the *USNWR* College Rankings,” *CHERI Working Papers*, Paper 42, 2003, available at <http://digitalcommons.ilr.cornell.edu/workingpapers/42>.

<sup>34</sup> University of California Office of the President, “Table 2: University of California New Freshman Admit Rates by Campus and Residency, Fall 2011, 2012, and 2013,” available at [http://www.ucop.edu/news/factsheets/2013/fall\\_2013\\_admissions\\_table2.pdf](http://www.ucop.edu/news/factsheets/2013/fall_2013_admissions_table2.pdf) (last modified Apr. 1, 2013). In addition, data from the UC Office of the President show that UC-eligible black students

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**Figure 1** charts the admit rates<sup>35</sup> for underrepresented minorities at UC Berkeley and UCLA, between 1994 and 2012. The most notable feature of the chart is the abrupt drop in admit rates for URM<sup>s</sup> at the two top-tier UC campuses between 1997 and 1998, coinciding with the implementation of the ban on race-conscious admissions.<sup>36</sup> At UC Berkeley, for example, the URM admit rate plummeted by more than half, from 46.8 percent in 1997 to 20.6 percent in 1998, while the overall admit rate declined only minimally between the years, from 33 percent to 29.9 percent. Although the corresponding drop in the URM admit rate at UCLA was less pronounced – from 40.5 percent in 1997 to 24.3 percent in 1998 – it was nonetheless severe, particularly when viewed in relation to the smaller decline in the overall campus admit rate between the two years (from 37 percent in 1997 to 33.4 percent in 1998).

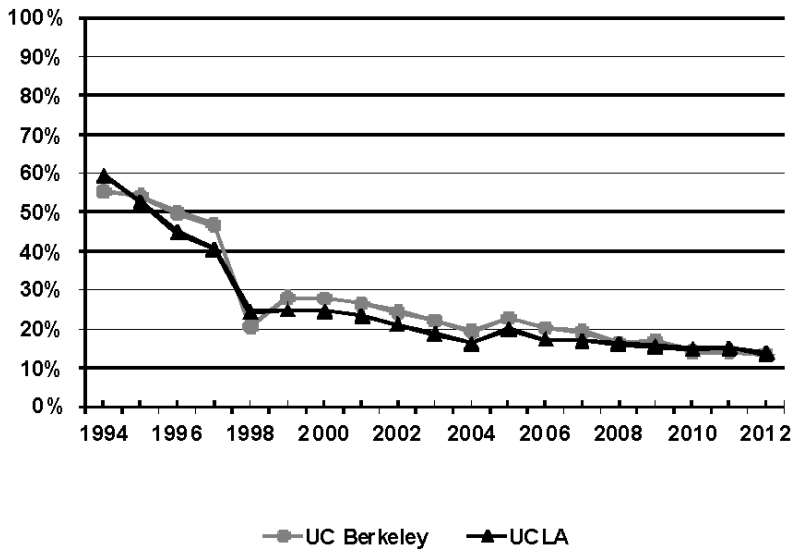
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denied admission to UCLA or UC Berkeley are particularly likely to leave the state altogether for elite private institutions. Wilbur, “College Destinations.”

<sup>35</sup> The admit rate for any group is defined as the total number of applicants in the group, divided by the number of applicants from the group that are admitted. Unless otherwise stated, statistics refer to in-state applicants.

<sup>36</sup> Admit rates actually began to drop prior to the full implementation of the ban in 1998 due to the “chilling effect” of the UC Regents’ adoption of SP-1 in 1995 (*see* Argument, Part III, *infra*).

**Figure 1. Admit Rate for Underrepresented Minorities to UC Berkeley and UCLA, 1994-2012**



*Note:* Data represent all full-time freshman applicants who are California residents entering the fall quarter.

*Source:* University of California Office of the President, “Final Summary of Freshman Applications, Admissions, and Enrollment, Fall 1989-2012,” available at <http://www.ucop.edu/news/factsheets/2012/flow-frosh-ca-12.pdf> (last modified Mar. 2013).

The decline in URM presence at UC Berkeley and UCLA that coincides with the ban on race-conscious admissions is particularly troubling because of the negative impact on the graduate school pipeline. Attending institutions with the global reputations

of UC Berkeley or UCLA confer significant advantages on those seeking admission to top graduate programs.<sup>37</sup> However, due to the ban on affirmative action, fewer URM students are graduating from selective public universities.<sup>38</sup> According to one report, URMs accounted for just 20.9 percent of all graduate and professional students throughout the UC system in fall 2008.<sup>39</sup> Another report also found that “African American/black graduate students at UC are represented at proportions lower than those at our comparable institutions.” Focusing on UC professional schools, the report concluded that “[e]nrollments of URMs in UC professional school programs substantially declined following SP-1 and Proposition 209.”<sup>40</sup>

In fact, between 1996 and 1997, the African American share of enrollment at UC Berkeley’s law school plummeted from 7.6 percent to just 0.4 percent, while the Latina/o share was halved, from 10.6 percent to 5.2 percent. The declines for UCLA’s law

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<sup>37</sup> Mullen, Goyette, & Soares, “Who Goes to Graduate School?,” *supra* note 11.

<sup>38</sup> See Ben Backes, “Do Affirmative Action Bans Lower Minority College Enrollment and Attainment?: Evidence from Statewide Bans,” 47 *Journal of Human Resources* 435, 435-55 (2012); Peter Hinrichs, “Affirmative Action Bans and College Graduation Rates,” Nov. 12, 2012, *available at* [http://www9.georgetown.edu/faculty/plh24/affactionbans-collegegradrates\\_112112.pdf](http://www9.georgetown.edu/faculty/plh24/affactionbans-collegegradrates_112112.pdf).

<sup>39</sup> University of California Regents, *University of California Diversity Annual Accountability*, *supra* note 6.

<sup>40</sup> University of California Regents, *Report of the Work Team*, *supra* note 6.

school, while not as severe, were significant: the African American share declined from 6.2 percent in 1996 to just 2.6 percent in 1997, and the Latina/o share declined from 14.7 percent to 10.2 percent.<sup>41</sup> The enrollment share of URM students at UCLA's law school has not recovered since 1997. By fall 2011, the total URM enrollment share was just 13.9 percent<sup>42</sup> and only 10.7 percent for new registrants.<sup>43</sup> Of all the professional degree programs, however, UC business schools have the lowest percentage (5 percent) and number of enrolled URM students.<sup>44</sup>

Clearly, racial disparities in access to UC graduate and professional programs are exacerbated by restricting freshmen URM access to the system's top-tier campuses. The implications associated with these disparities reverberate throughout the academic pipeline and beyond. Indeed, recent studies document how the ban on affirmative action not only limits the

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<sup>41</sup> William C. Kidder, "The Struggle for Access from *Sweatt to Grutter*: A History of African American, Latino, and American Indian Law School Admissions, 1950-2000," *Harvard BlackLetter Law Journal*, vol. 19, Spring, 2003, at 1-42.

<sup>42</sup> UCLA Graduate Division, *UCLA Graduate Programs Admissions & Enrollment Report, 2011-2012*, available at <http://www.gdnet.ucla.edu/asis/report/aer1112.pdf> (last accessed Aug. 20, 2013).

<sup>43</sup> By fall 2011, the admit rate for URM students at UCLA's law school had fallen to only 11.9 percent, compared to 22.2 percent for all applicants. UCLA Graduate Division, *UCLA Graduate Programs Admissions*.

<sup>44</sup> University of California Regents, *University of California Diversity Annual Accountability*, *supra* note 6.

opportunities for talented and qualified URMs to attend the most selective public professional schools,<sup>45</sup> but it also limits the UC's ability to produce diverse leaders who have acquired the intercultural and specialized technical skills necessary for competing successfully in the global marketplace and advancing science and technology.<sup>46</sup>

### **III. PROPOSITION 209's BAN ON AFFIRMATIVE ACTION HAS CREATED A "CHILLING EFFECT" ON THE IMPLEMENTATION OF REFORMS THAT MIGHT FURTHER THE INTERESTS OF UNDERREPRESENTED MINORITIES.**

In the aftermath of Proposition 209, UC administrators have been under constant surveillance by supporters of the ban on race-conscious admissions. Consequently, reforms that have resulted in only minor improvements to URM access were met immediately with charges that administrators had illegally used race in admissions decisions, which often discouraged administrators from experimenting with other reforms that might produce excellent freshman classes *without* placing a unique burden on URMs.

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<sup>45</sup> Liliana M. Garces, "Racial Diversity, Legitimacy, and the Citizenry: The Impact of Affirmative Action Bans on Graduate School Enrollment," 36 *Review of Higher Educ.* 93, 93-132 (2012).

<sup>46</sup> Kidder, "Misshaping the River," *supra* note 13; Liliana M. Garces, "Understanding the Impact of Affirmative Action Bans in Different Graduate Fields of Study," 50 *Am. Educ. Research J.* 251, 251-84 (2013).



In 2002, for example, the UC implemented “comprehensive review” “to improve the quality and fairness of admissions decisions at the University of California.”<sup>47</sup> These new systemwide admissions guidelines, which are still in effect, were designed to consider a full range of student accomplishments (*e.g.*, leadership, community service, and artistic, musical, or athletic talent), while also considering a student’s experiences and personal circumstances. In other words, though traditional indicators of academic achievement continue to drive UC admissions decisions, students are no longer admitted to UC *solely* on the basis of grades and standardized test scores, as was standard practice at some campuses<sup>48</sup> and for a subset of applicants (typically those with the very highest GPAs and test scores).

As per Proposition 209’s mandate, comprehensive review *does not* consider an applicant’s race as a factor in admissions. While this reform of UC admissions

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<sup>47</sup> University of California Office of Strategic Communications, “News Release: Facts about the University of California: Comprehensive Review Progress Report,” Oct. 2003, *available at* [http://www.ucop.edu/news/factsheets/2002/compr\\_review.pdf](http://www.ucop.edu/news/factsheets/2002/compr_review.pdf).

<sup>48</sup> The UC Regents have delegated to the faculty the authority to establish UC admissions standards and policies. Each UC campus sends a representative to the Board on Admissions and Relations with Schools (BOARS), the system-wide body that sets these overarching admissions principles. In turn, each campus has a corresponding faculty committee that sets campus-specific admissions policies and practices that must adhere to the overarching principles established by BOARS, such as comprehensive review.

policy addressed some of the shortcomings associated with using traditional indicators of merit in isolation (described above) and moderately decreased the rate at which URMs were being turned away from the top UC campuses following the ban, it did *not* return URM access to pre-Proposition 209 numbers due to the severity of race-based K-12 inequities in the state. But there *were* relatively small fluctuations in URM admissions to UC Berkeley and UCLA between 2002 and 2012, and any increases were immediately challenged by Proposition 209 advocates as evidence that either the campuses were lowering their standards (despite the fact that the mean GPAs and standardized test scores of admitted students continued to increase)<sup>49</sup> or illegally practicing race-conscious admissions.

In 2004, for example, UC Regent John Moores charged that UC Berkeley was “admitting ‘under-represented minorities’ with very low SAT scores while rejecting many applicants with high SAT scores.”<sup>50</sup> This charge refocused attention on a single measure of merit in UC admissions, standardized test scores, despite the fact that, as we show above, these

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<sup>49</sup> At UCLA, these means for admitted students increased between 2002 and 2010. University of California Office of the President, UC StatFinder, <http://statfinder.ucop.edu> (last accessed Oct. 24, 2011).

<sup>50</sup> John Moores, “On My Mind: College Capers,” *Forbes*, Mar. 29, 2004, *available at* <http://www.forbes.com/forbes/2004/0329/040.html>.

tests both disadvantage URM applicants and do a relatively poor job of predicting college performance. The charge also cautioned administrators against further experimenting with other reforms that might address some of the problems associated with the system's continued, heavy reliance on traditional indicators of merit.

The elimination of race-conscious admissions has been particularly harmful for African American applicants to the top campuses. In 2006, for example, a front-page *Los Angeles Times* article reported the "startling statistic" that less than 100 African Americans were expected to enroll in a 2006 UCLA freshman class of about 5,000 students – a low not seen since *at least* 1973.<sup>51</sup> When African American scholarship athletes were subtracted from that number, less than 25 members of the state's largest freshman class<sup>52</sup> were projected to be African American males. That year, only 11.9 percent of African American applicants to UCLA were presented with admissions offers – a rate that was less than half the campus's overall admit rate of 25.8 percent.

Subsequently, UCLA implemented "holistic review" for the fall 2007 freshmen class, a reform of its prior comprehensive review admissions process, which

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<sup>51</sup> Reliable racial statistics do not exist for UCLA prior to 1973.

<sup>52</sup> UCLA also has the most applicants of any California college campus, public or private.

emphasized evaluating student academic achievement more explicitly within the context of individual opportunities and challenges. Modeled after the admissions scheme already in place at UC Berkeley, the new process at UCLA was more labor intensive and costly than the one it replaced, as multiple readers were each now required to review every aspect of an applicant's file – academic records, personal essays, records of personal achievement, and high school contextual information – in order to rate the applicant's merit with a single “holistic” score.<sup>53</sup>

But because UCLA's new admissions scheme contributed to a 100 percent increase in the number of black freshmen enrolling in 2007 (over the 33-year low of less than 100 black freshmen in 2006), critics immediately cried foul. “One of three things must be happening,” quipped former UC Regent Ward Connerly and Proposition 209 promoter. “Black kids have either gotten extremely smart or extremely competitive in a way they weren't five or six years ago, or there's been a deliberate, carefully orchestrated effort by a lot of admissions people to conspire to increase those numbers, or they've found a proxy for race.”<sup>54</sup> Meanwhile, UCLA political science professor

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<sup>53</sup> While UCLA's prior admissions model involved multiple readers per file, it divided up each file into parts that were read in assembly line fashion. That is, no one reader had access to an entire file, and high school contextual variables played a smaller role in the assessment of merit.

<sup>54</sup> Rebecca Trounson & Richard Paddock, “UCLA Sees an Increase in Black Student Admissions,” *Los Angeles Times*, Apr. (Continued on following page)

Tim Groseclose speculated that URM students might be gaining an unfair advantage by signaling their ethnicity in the personal essay portion of the application.<sup>55</sup>

These incendiary public accusations stigmatized incoming black freshmen<sup>56</sup> – who had posted a stellar mean GPA of 3.97 – and prompted UCLA to commission an independent audit of its reformed admissions process with only two years of data. Although the conclusions released in May 2012 showed “no evidence of bias”<sup>57</sup> and confirmed that the UCLA admissions process “honors academic achievement and prioritizes acceptance to applicants of exceptional academic accomplishment,”<sup>58</sup> one critic, UCLA law professor Richard Sander, continued to attack the credibility of

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6, 2007, *available at* <http://articles.latimes.com/2007/apr/06/local/me-admit6>.

<sup>55</sup> Seema Mehta, “UCLA Accused of Illegal Admitting Practices,” *Los Angeles Times*, Aug. 30, 2008, *available at* <http://articles.latimes.com/2008/aug/30/local/me-ucla30>.

<sup>56</sup> Support group meetings were held throughout the fall of 2007 for African American students who wondered if they had made the right decision by choosing UCLA over the many other selective institutions that had offered them admission.

<sup>57</sup> Ricardo Vazquez, “Independent Report Confirms UCLA Admissions Process Working as Intended by Faculty,” UCLA Newsroom, May 17, 2012, *available at* <http://newsroom.ucla.edu/portal/ucla/independent-report-confirms-ucla-234132.aspx>.

<sup>58</sup> UCLA Academic Senate, Committee on Undergraduate Admissions and Relations with Schools (CUARS), “Statement on the Mare Analysis of Undergraduate Admissions,” May 17, 2012, *available at* [http://www.senate.ucla.edu/committees/cuars/documents/CUARSStatementonMareReport\\_Final.pdf](http://www.senate.ucla.edu/committees/cuars/documents/CUARSStatementonMareReport_Final.pdf).

the UCLA admissions process with a paper he posted online titled “The Consideration of Race in UCLA Undergraduate Admissions.” Although his methodology and conclusions were later disputed by two independent reviewers,<sup>59</sup> Sander’s accusations had already been publicized by the UCLA student paper, the *Daily Bruin*.<sup>60</sup> The campus publicity led to a rally by hundreds of URM students on campus who felt stigmatized by Sander’s claims that they did not merit admission to UCLA.<sup>61</sup>

Incidents like this have not only exacerbated the “chilling effect” already in place, but they also have severely damaged the racial climate on UC campuses, particularly the top-tier campuses, since the implementation of Proposition 209. Indeed, recent survey data on UC students’ perceptions of campus life reveal that African American and Latina/o students feel

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<sup>59</sup> Ricardo Vazquez, “External Reviews Cast Doubt on UCLA Professor’s Analysis of Campus Admissions Practices,” UCLA Newsroom, Feb. 25, 2013, *available at* <http://newsroom.ucla.edu/portal/ucla/two-external-reviews-cast-doubt-243753.aspx>.

<sup>60</sup> Alexia Boyarsky, “Findings by Law Professor Suggest that UCLA Admissions May Be Violating Prop 209,” *Daily Bruin*, Oct. 23, 2012, *available at* <http://dailybruin.com/2012/10/23/findings-by-law-professor-suggest-that-ucla-admissions-may-be-violating-prop-209/>.

<sup>61</sup> Ryan Nelson & Zachary Lemos, “Students Protest Claims that Race May Factor into Admissions Decisions,” *Daily Bruin*, Oct. 30, 2012, *available at* <http://dailybruin.com/2012/10/30/students-protest-claims-that-race-may-factor-into-admissions-decisions/>.

they are less respected than their counterparts at the University of Texas, Austin and two other peer institutions.<sup>62</sup> Thus, it should not be surprising that since Prop 209 passed, URM students “more so for those with the strongest credentials, and especially for African Americans” have been more likely to reject an offer from UC at a rate that continues to increase compared to whites and Asian Americans.<sup>63</sup>

Despite the huge controversy surrounding UC admissions reforms following the ban on affirmative action, the overall effect of these reforms on URM access has been modest at best. In fact, **Figure 1** above shows that URM admit rates for California freshman continued to decline at UCLA and UC Berkeley throughout the first decade of the 2000s, reaching lows of 13.6 percent and 13.3 percent, respectively, in 2012. By contrast, overall admit rates for UCLA and UC Berkeley were much larger in 2012 – 18.8 percent and 18 percent, respectively. Again, the impact was most severe for African American applicants. In 2012, the admit rate for African American applicants to UCLA was the lowest among all ethnic groups, 12 percent. Only 367 of the 3,071 African American applicants to UCLA were admitted that year, and just 169 enrolled. The corresponding figures for UC Berkeley were similarly low. The campus’s

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<sup>62</sup> Kidder, “Misshaping the River,” *supra* note 13.

<sup>63</sup> *Id.* at 56.

African American admit rate of 12.5 percent translated into just 302 African American admits and 129 enrollees in 2012. The system's most prestigious campus had welcomed about twice as many black freshmen in 1997, the last year of affirmative action. To put this in perspective, there were 2.38 million college-aged URM's in California in 2012, constituting 55.5 percent of the state's college-aged population.<sup>64</sup> In other words, the data from California neither support Petitioner's claim of a "warming effect"<sup>65</sup> nor

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<sup>64</sup> College-aged population is defined as individuals who are 18-24 years old. The California Postsecondary Education Commission, "Ethnicity Snapshots – Ethnicity, Population – Graphs," available at <http://www.cpec.ca.gov/StudentData/EthSnapshotMenu.asp> (last accessed Aug. 22, 2013).

<sup>65</sup> The data does not support Petitioner's claim of a "warming effect." Sander and colleagues' research cited by Petitioner has been challenged as "over-relying on yield rate data for under-represented minority students with the lowest entry credentials" (Kidder, "Misshaping the River," 75). In addition, Petitioner claims that heavily recruiting low-income students "inevitably" leads to increased URM enrollment. However, UCLA and UC Berkeley are the top two universities in the nation for enrolling the most students (39 percent and 38 percent of undergraduates, respectively) who receive Pell grants (aid for low-income students). The next school on the list has 9 percent less students who receive Pell grants. Even with such a remarkable percentage of Pell grant recipients and a clear effort to recruit low-income students, UCLA and UC Berkeley still enroll an appallingly low percentage of California URM freshmen. *U.S. News and World Report*, "2013 Economic Diversity among the Top 25 Ranked Schools," available at <http://colleges.usnews.rankingsandreviews.com/best-colleges/rankings/national-universities/economic-diversity-among-top-ranked-schools> (last accessed Aug. 18, 2013).



do they bode well for the economic future of a state that is increasingly majority minority. In short, the ban on race-conscious admissions – in addition to eliminating policy tools that would *directly* provide underrepresented minorities greater access to the state’s most prestigious public institutions – has created a “chilling effect” on the reform efforts of university administrators, who might otherwise implement admissions reforms based on more inclusive notions of “merit.”



## CONCLUSION

California Proposition 209 – which is identical in content and intent to Michigan Proposal 2 – clearly has a “racial focus, targeting a program that ‘inures primarily to the benefit of the minority.’” Sixteen years of empirical evidence concerning minority access to the University of California documents the substantial burden that the ban on race-conscious admissions has placed on racial minorities. There has been a significant drop in the admission of qualified African American, Latino and Native American students to the top UC campuses and the ban has removed any recourse these students had for directly remedying the situation. Contrary to Petitioner’s claim that the ban on affirmative action has led to a “warming effect” on URM yield rate, UC data reveal the ban has actually created a “chilling effect” on the experimentation with admissions reforms, further

hardening the undue burden placed on URM's seeking access to top-tier campuses.

Respectfully submitted,

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Dated: August 30, 2013

**APPENDIX: LIST OF *AMICI CURIAE***

- **Charles Alexander** is Director of the Academic Advancement Program (AAP) at University of California, Los Angeles (UCLA). AAP supports students from educationally disadvantaged backgrounds, including first-generation college students and students from low-income families and underrepresented populations. At UCLA, Alexander is also Associate Vice Provost for Student Diversity in the Division of Undergraduate Education, and Associate Adjunct Professor in the Division of Public Health, School of Dentistry. Dr. Alexander oversees AAP programs, including academic advising, peer learning, mentoring, research opportunities and scholarships. Previously, Alexander was the associate dean for student affairs in the School of Dentistry at University of California, San Francisco (UCSF). He founded UCSF's Dental Careers Program, which offered the nation's first dental post-baccalaureate program. Prior to that, Alexander created and ran student diversity programs at Marquette University and Brandeis University. A past president of the National Association of Medical Minority Educators, Dr. Alexander received UCSF's Martin Luther King, Jr. Award for leadership and inspiration in advancing social and economic justice goals. He also has served as chair of the Robert Wood Johnson Foundation's Dental Pipeline Project II Advisory Committee. He received a 2011 Champions of Health Professions Diversity Award from The California Wellness Foundation in recognition of his commitment to increasing California's health-care workforce and its diversity. He is a member of many organizations, including the American

Association of Blacks in Higher Education and the National Association of Diversity Officers in Higher Education.

- **Angela P. Harris** is Professor of Law at UC Davis. She began her career at the UC Berkeley School of Law in 1989, and has been a visiting professor at the law schools of Stanford, Yale, and Georgetown. In 2010-2011, at the State University of New York-University of Buffalo School of Law, she served as the vice dean of research and faculty development. She writes widely in the field of critical legal theory, examining how law sometimes reinforces and sometimes challenges subordination on the basis of race, gender, sexuality, class, and other dimensions of power and identity. Most recently, she has begun to apply these insights to the fields of environmental and food justice. She is also interested in the role of contemplative practices, such as mindfulness meditation, in the teaching and practices of law. Her writings have been widely anthologized and have been translated into many languages, from Portuguese to Korean. Harris is the author of a number of widely reprinted and influential articles and essays in critical legal theory. She is also a prolific co-author of casebooks, including *Criminal Law: Cases and Materials*, *Race and Races: Cases and Materials for a Diverse America*, *Gender and Law*, and *Economic Justice*. Harris is the recipient of the Rutter Award for Teaching Distinction from Berkeley Law, the 2003 Matthew O. Tobriner Public Service Award, and the Clyde Ferguson Award from the Association of American Law Schools Minority Section.

- **Tyrone Howard** is Professor of Urban Schooling in the Graduate School of Education & Information Studies at UCLA. Professor Howard is the former Chair of the UCLA Committee on Undergraduate Admissions and Relations with Schools (CUARS). He also is the Faculty Director of Center X, the Founder and Executive Director of the Black Male Institute, and an appointed member of the Faculty Advisory Committee of the Bunche Center for African American Studies at UCLA. Dr. Howard is also the past Faculty Associate Director for the Academic Advancement Program at UCLA, which is the nation's premier student retention program for underrepresented students. Formerly, Professor Howard was an Assistant Professor in the College of Education at The Ohio State University. Dr. Howard is the author of the 2010 book, *Why Race and Culture Matters in Schools: Closing the Achievement Gap in America's Classrooms*, published by Teachers College Press. He has authored more than 50 peer-reviewed journal articles, book chapters, and other academic publications and reports. He has published his research in *The Journal of Higher Education*, *Teachers College Record*, *Theory & Research in Social Education*, *The Journal of Negro Education*, *Urban Education*, and several other well-regarded academic journals. Additionally, Professor Howard has delivered over 75 keynote addresses and presented more than 150 research papers, workshops, and symposia at national higher education, education research, teacher education, and social studies conferences. Best known for his scholarship on race, culture, and education, Dr. Howard is one of the most

renowned scholars on educational equity, the African American educational experience, Black males, and urban schools. In 2007, Professor Howard received an Early Career Scholar award from the American Education Research Association, the nation's premier educational research association. He has received more than \$5 million in research grants from the National Board for Professional Teaching Standards, the Department of Education, and other sources to fund his research. In 2007, Professor Howard received the UCLA GSE&IS Distinguished Teaching Award. Dr. Howard has been a guest on National Public Radio, has been featured in *Diverse Issues in Higher Education*, has been recognized in *Who's Who in Black Los Angeles*, and is a regular urban education contributor to the *New York Times*.

- **Darnell Hunt** is Director of the Ralph J. Bunche Center for African American Studies and Professor of Sociology at UCLA. Dr. Hunt has written extensively on race, media, and access to higher education, including numerous scholarly journal articles, research reports, and popular magazine articles. He also has published four books related to these issues: *Screening the Los Angeles "Riots": Race, Seeing, and Resistance* (Cambridge University Press, 1997), *O.J. Simpson Facts and Fictions: News Rituals in the Construction of Reality* (Cambridge University Press, 1999), *Channeling Blackness: Studies on Television and Race in America* (Oxford University Press, 2005), and (with Ana-Christina Ramon) *Black Los Angeles: American Dreams and Racial Realities* (NYU Press, 2010). He was principal investigator on a major Bunche Center study funded by the Ford

Foundation (2002-2008) that analyzed African American access to the University of California in the aftermath of California Proposition 209. Professor Hunt is a former chair of UCLA's Committee on Undergraduate Admissions and Relations with Schools, the Academic Senate committee that sets admissions policy at UCLA. He also served as UCLA's representative to the Board of Admissions and Relations with Schools, the University of California faculty body to whom the UC Regents have delegated authority to establish systemwide admissions policy. Prior to his positions at UCLA, Professor Hunt chaired the Department of Sociology at the University of Southern California. Over the past two decades, he also has worked on several projects exploring the issues of access and diversity in the Hollywood industry. He authored the last three installments of the *Hollywood Writers Report*, released by the Writers Guild of America (WGA) in 2005, 2007, and 2009. He was principal investigator of *The African American Television Report*, released by the Screen Actors Guild (SAG) in June of 2000. He also worked as a media researcher for the U.S. Commission on Civil Rights' 1993 hearings on diversity in Hollywood.

- **Sylvia Hurtado** is Professor of Higher Education and Organizational Change in Graduate School of Education & Information Studies at UCLA and Director of the Higher Education Research Institute at UCLA. Professor Hurtado is also the former Chair of the University of California Board of Admissions & Relations with Schools (BOARS) and a former member of the UCLA Committee on Undergraduate Admissions and Relations with

Schools (CUARS). Just prior to coming to UCLA, she served as Director of the Center for the Study of Higher and Postsecondary Education at the University of Michigan. Professor Hurtado has published numerous articles and books related to her primary interest in student educational outcomes, campus climates, college impact on student development, and diversity in higher education. She has served on numerous editorial boards for journals in education and served on the boards for the American Association of Higher Education (AAHE), the Higher Learning Commission, and is past-President of the Association for the Study of Higher Education (ASHE). *Black Issues In Higher Education* named her among the top 15 influential faculty whose work has had an impact on the academy. Professor Hurtado has coordinated several national research projects, including a U.S. Department of Education-sponsored project on how colleges are preparing students to achieve the cognitive, social, and democratic skills to participate in a diverse democracy. She is heading a National Institutes of Health project on the preparation of underrepresented students for biomedical and behavioral science research careers. She has also studied assessment, reform, and innovation in undergraduate education on a project through the National Center for Postsecondary Improvement.

- **Bob Laird** is the former director of undergraduate admission at UC Berkeley. After spending 22 years in admissions and outreach, he retired in 1999. During his retirement ceremony, the University awarded him the Berkeley Citation, its highest honor for staff. While at UC Berkeley, he



was a frequent presenter at national admissions conferences and he served on the Guidance and Admission Assembly Council of the College Board from 1997-00 and on the College Board's Overseas Schools Project Advisory Committee (East Asia) in 2000-01. Since his retirement from Berkeley, Laird has been an independent consultant on higher education admissions policy and has written extensively on admissions and equity issues, including *The Case for Affirmative Action in University Admissions*, published in 2005 by Bay Tree Publishing. As a consultant, his clients have included the University of Florida, West Virginia University, Herricks Unified Free School District (New Hyde Park, New York), John Cabot University in Rome, and Standards for Success (a joint project of The Pew Charitable Trusts and the American Association of Universities). His most recent articles are "Regents, President Betray Students," which appeared in the *San Francisco Chronicle* (December 20, 2009) and "The Trouble with Transferring: It Shouldn't be So Difficult," which appeared in the March 27, 2009, issue of *The Chronicle of Higher Education*. His work has also appeared in the *Sacramento Bee* and *National CrossTalk*, among other places.

- **Claudia Mitchell-Kernan** is a Professor in the Departments of Anthropology and Psychiatry and Bio-Behavioral Sciences and former Dean of the Graduate Division and Vice Chancellor of Graduate Studies Emeritus at UCLA. For 22 years, Professor Mitchell-Kernan was responsible for graduate admissions, student academic affairs, student support, and diversity at UCLA. She also served as Acting Vice Chancellor for Student

Affairs for a period of 18 months, an assignment that included oversight of undergraduate admissions as well. Before coming to UCLA in 1973, she was a member of the faculty at Harvard University. Professor Mitchell-Kernan is widely known for her early work in linguistic anthropology, and her classic sociolinguistic studies of African Americans continue to be widely cited. Her most recent book, *The Decline in Marriage Among African Americans*, co-edited with M. Belinda Tucker, was published in 1995 by the Russell Sage Foundation. Throughout her career, Professor Mitchell-Kernan has maintained an active record of service nationally to federal agencies that sponsor research. President Clinton appointed her to a six-year term on the National Science Board (1994-2000), which provides advice to the President and Congress on issues affecting science and technology and governs the National Science Foundation. At the national level, she has served on the Board of Directors of the Consortium of Social Science Associations, and the Government Relations Advisory Committee of the Council of Graduate Schools. Other recent service includes: the Board of Directors of the Council of Graduate Schools; Chair of the CGS Advisory Committee on Minorities in Graduate Education; Chair of the Board of Directors of the Graduate Record Examination; Board of Higher Education and Workforce of the National Research Council; and the Advisory Board of the National Security Education Program.

- **Chon Noriega** is Professor in the Department of Film, Television, and Digital Media, and Director of the Chicano Studies Research Center (CSRC)

at UCLA. As Director of the CSRC, Professor Noriega has hosted each year since 2006 an Education Summit that brings together scholars, educators, community representatives, policy makers, and students to discuss the critical issues that Latina/o students face at each segment of the education pipeline. Recent Summits have focused on research related to Chicano/Latino access to the University of California in the aftermath of Proposition 209. Professor Noriega is author of *Shot in America: Television, the State, and the Rise of Chicano Cinema* (Minnesota, 2000) and editor of nine books dealing with Latino media, performance and visual art. He has produced two documentaries, most recently “Casa Libre/Freedom House” (2008), about a homeless shelter for undocumented, unaccompanied minors. For the past decade, Noriega has been active in media policy and professional development, for which Hispanic Business named him as one of the Top 100 Most Influential Hispanics. He is co-founder of the 400-member National Association of Latino Independent Producers (NALIP, established in 1999) and served two terms on the Board of Directors of the Independent Television Service (ITVS), the largest source of independent project funding within public television. In addition to his work in media, Noriega has curated numerous arts projects, including the current traveling exhibition *Phantom Sightings: Art After the Chicano Movement*. Professor Noriega’s awards include the Getty Postdoctoral Fellowship in the History of Art (for art history) and the Rockefeller Foundation

Film/Video/Multimedia Fellowship (for documentary production).

- **Jody Priselac** is Adjunct Professor and Associate Dean for Community Programs in the Graduate School of Education and Information Studies and Executive Director of Center X at UCLA. In her role as the head of Center X, she coordinates work to transform public schooling in order to create a more just and equitable society. The Center's day-to-day work focuses on aiding with teacher and administrator professional development in urban schools. Professor Priselac's current research focuses on understanding how to bring about change in teacher practice in teaching mathematics in urban schools. She is specifically interested in examining what facilitates change, how change occurs, and the role of professional development in change. Select writings include: J. Priselac (2003), "Providing High Quality Professional Development," Presentation at the Council of Chief State School Officers, The No Child Left Behind Act Teacher Quality Braintrust Meeting, Washington, D.C.; J. Priselac, Powell, Peitzman, Montagna (April 2003), "Making Connections: Antiracist Pedagogy and Social Justice Teacher Education," Paper presented at the annual meeting of the American Education Research Association, Chicago, Illinois; J. Priselac (2003), "Take the Challenge: Teach Mathematics Differently," Invited Keynote Address at the annual conference of the Los Angeles City Teachers of Mathematics Association, Los Angeles, California.

- **Daniel Solorzano** is a Professor of Social Science and Comparative Education in the Graduate School of Education and Information Studies at the University of California, Los Angeles (UCLA). He also has a joint appointment as Professor in the Chicana and Chicano Studies Department and is an affiliated Professor in the Women's Studies Department. He is the Director of the University of California All Campus Consortium on Research for Diversity (UC/ACCORD), an interdisciplinary, multi-campus research center devoted to a more equitable distribution of educational resources and opportunities in California's public schools and universities. His teaching and research interests include critical race and gender studies in education, racial marginality and microaggressions in education, and race/ethnic, gender, and class relations with a special emphasis on the educational access, persistence, and graduation of underrepresented undergraduate and graduate students of color in the United States. Dr. Solorzano has authored over sixty research articles and book chapters on issues of educational access and equity for underrepresented minority populations in the United States. Over his 38-year career in higher education, Solorzano has taught in the California Community College (East Los Angeles College; Santa Monica College), California State University (California State University Northridge; California State University Bakersfield), and University of California (UCLA) Systems. In 2006, Professor Solorzano received the UCLA Education Department Distinguished Teacher Award and in 2007 he was awarded the UCLA-wide Distinguished

Teacher Award. In 2010, Solorzano also received the UCLA Ronald McNair Scholars Program Mentor of the Year Award. In 2011, Solorzano was given the American Education Research Association (AERA) Multicultural/Multiethnic Education Special Interest Group's Carlos J. Vallejo Memorial Award for Lifetime Scholarship.

- **Chris Tilly** is Director of UCLA's Institute for Research on Labor and Employment and Professor in the Urban Planning Department. Professor Tilly studies labor markets, inequality, urban development, and public policies directed toward better jobs. He is particularly interested in understanding how combinations of institutions and markets generate unequal labor outcomes, and in how public policy and collective action can successfully be directed toward improving and equalizing such outcomes. Within this framework, Professor Tilly has examined part-time and contingent work, gender and racial disparities, job mobility, and other issues. Although most of his research has been focused on the United States, he has traveled frequently to Latin America and the Caribbean over the past 30 years, and has written about development issues and social movements in Argentina, Brazil, Cuba, Haiti, Mexico, and Central America. He has recently broadened his research agenda to include a new emphasis on jobs in Mexico, as well as undertaking comparative analyses with European colleagues. In addition to conducting scholarly research, he served for 20 years (1986-2006) as editor of *Dollars and Sense*, a popular economics magazine, and frequently conducts research for advocacy groups, community organizations, and

labor unions. He served on the Program Committee and later the Board of Directors of Grassroots International from 1991-2003, ending that time as the Chair of the Board. Before becoming an academic, he spent eight years doing community and labor organizing.

- **M. Belinda Tucker** is a social psychologist and Professor of Psychiatry and Biobehavioral Sciences at UCLA, a former Associate Dean in the Graduate Division, and currently the Vice Provost of the Institute for American Cultures at UCLA. Professor Tucker is also a Faculty Associate of the Bunche Center for African American Studies, for which she served as Interim Director from 1989-1991. She also served as Associate Dean in the Graduate Division at UCLA from 2007-2011. For 30 years and largely with NIH funding, Professor Tucker has examined and published extensively on the nature of close, personal relationships in a sociocultural context, using a variety of research methods. Her 1995 book, *The Decline in Marriage Among African Americans*, co-edited by Claudia Mitchell-Kernan, is still widely used in university classrooms around the nation and elsewhere. She has conducted a number of major national studies, including the landmark National Survey of Black Americans, as well as the 21-city Survey of Families and Relationships (SFR). Her studies also include work on inter-ethnic relations, the transition to adulthood among urban black youth from distinct cultural groupings, social adaptation of developmentally delayed adults over the life-course, and the impact of incarceration on family members and close ties. Tucker is the recipient of both a

Research Scientist Development Award and an Independent Scientist Award from the National Institute of Mental Health (NIMH). From 2003-2009, Tucker directed the Family Research Consortium IV, a national collaborative network and training program for scholars interested in family mental health, as well as its affiliated postdoctoral fellowship program, both funded by NIMH and the Robert Wood Johnson Foundation. She has served on numerous panels for the NIH and other agencies and universities and has been cited twice by the Department of Psychiatry for outstanding teaching and mentoring.

- **Abel Valenzuela Jr.** is the current chair of the César E. Chávez Department for Chicana/o Studies and holds joint appointment in the Department of Urban Planning. Professor Valenzuela is the past Vice Chair of the UCLA Committee on Undergraduate Admissions and Relations with Schools (CUARS) and former UCLA representative to the University of California Board of Admissions & Relations with Schools (BOARS). His research is primarily concerned with the issues faced by minorities and immigrants in the U.S. His work focuses on three key interrelated areas: 1) immigration and labor markets, 2) poverty and inequality, and 3) immigrant settlement patterns. His work combines ethnographic, in-depth interviews, participant observation, and quantitative methods to document and explain the processes that govern the incorporation of immigrants to the U.S. Professor Valenzuela is currently working on further publishing articles and completing a manuscript on day labor in a national context. His groundbreaking work on day labor continues



to drive his primary research agenda. In addition, Professor Valenzuela is undertaking research on non-union supermarket janitors (subcontractors), immigrant-serving community based organizations, and the organizing campaigns of security guards and car wash attendants. At UCLA, Professor Valenzuela directs the Center for the Study of Urban Poverty, teaches courses on labor and employment, immigration and U.S. society, urban poverty and public policy, and planning issues in minority communities. He is also the Chair of the University of California Committee on Latino Research.

- **Howard Winant** is Professor of Sociology at the University of California, Santa Barbara, where he is also affiliated with the Black Studies and Chicana/o Studies departments. He is the Founder and Director of the University of California Center for New Racial Studies, a MultiCampus Research Program that operates on all ten UC campuses (<http://www.uccnrs.ucsb.edu>). Professor Winant's research and writing focuses on racial theory and social theory, and the comparative historical sociology, political sociology, and cultural sociology of race, both in the US and globally. Professor Winant is most well known for developing the theory of racial formation along with Michael Omi. He is the author of *The New Politics of Race: Globalism, Difference, Justice* (UMinnPress, 2004), *The World Is a Ghetto: Race and Democracy Since World War II* (Basic, 2001), *Racial Conditions: Politics, Theory, Comparisons* (UMinnPress, 1994); *Racial Formation in the United States: From the 1960s to the 1990s* (co-authored with Michael Omi – Routledge, 1986

and 1994); and *Stalemate: Political Economic Origins of Supply-Side Policy* (Praeger, 1988).

- **David K. Yoo** is Professor of Asian American Studies and Director of the Asian American Studies Center at UCLA. A historian of the United States, Dr. Yoo is author of *Growing Up Nisei* (2000) in which he examines issues of race, generation, and culture among Japanese Americans in California in the early decades of the twentieth century. Recently released is his book from Stanford University Press entitled *Contentious Spirits* (2010) that focuses on the role of religion in Korean American history, 1903-1945. In addition, Professor Yoo has co-edited and co-authored three books dealing with Asian American religions, including the influential anthology, *New Spiritual Homes* (1999). His numerous journal articles and book chapters have appeared in venues like the *American Quarterly* and *Amerasia Journal*. Prior to his arrival at UCLA, he taught at Claremont McKenna College and the Claremont Colleges, where he served as chair of the Department of History and the Intercollegiate Department of Asian American Studies. Professor Yoo has been a Senior Fulbright Scholar (Korea) and a recipient of fellowships from the Rockefeller Foundation, the John Randolph Haynes and Dora Haynes Foundation, UCLA Institute of American Cultures, and the Huntington Library. He has collaborated on various research projects funded by the Pew Charitable Trusts, the Social Science Research Council, and the Lilly Endowment. Professor Yoo has served on many professional and community-based boards, including election to the council of the American Historical

Association, Pacific Coast Branch, and chair of the managing board of the Asian Pacific American Religions Research Initiative. In the realm of public history, Professor Yoo has been a consultant to local museums and historical societies and guided students in conducting oral history interviews.

- **Tara J. Yosso** is Associate Professor in the Department of Chicana and Chicano Studies at UC Santa Barbara. Her research interests include critical race theory, educational access and equity, campus racial and gender climate, critical media literacy, racial and gender microaggressions, and community cultural wealth. Her teaching and research apply a framework of critical race theory to examine educational access and equity, emphasizing the community cultural wealth students of color bring to school. The American Educational Studies Association selected her book, *Critical Race Counterstories Along the Chicana/Chicano Educational Pipeline* (New York: Routledge, 2006) for the 2008 Critics' Choice Book Award. Her research is published in journals such as *Race Ethnicity and Education*, *Qualitative Inquiry*, and the *Harvard Educational Review*. Her current research on critical race media literacy analyzes racial microaggressions evidenced in film portrayals of Latinas/os in schools.
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