

University of California, San Diego
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To: President Robert C. Dynes, Board of Regents
From: Michael Cornwell, Undergraduate Admissions Director
Subject: Admissions Diversity

Promoting Diversity:

The University of California (UC) system now boasts nine undergraduate campuses. As the UC remains the pre-eminent public university system in the United States, the admissions process is highly competitive for prospective students. Many applicants possess excellent scores on standardized tests, and grade-point averages above 4.0, due to Advanced Placement courses. Can a prospective student's capacity to learn and grow be adequately gauged by placing emphasis exclusively on test scores and grades, or are we as an organization responsible for- and committed to- unlocking this very potential?

Maintaining an admissions policy that does not take into consideration the very marked differences in educational opportunities experienced by students from families on the lower rungs of the socio-economic ladder is woefully inadequate. Diversity in undergraduate admissions can be promoted by changing our application process to include indicators that may signal a lack of educational opportunities, and provide these applicants with a chance to portray themselves as more than just a set of test scores and grades. By focusing on socio-economic background, rather than racial or ethnic identity, the UC can promote a diverse student body that is more representative of the demographic composition of this great state - without implementing a rigid quota system.

Legal Considerations:

In 1996, the voters of California approved Proposition 209, which was an amendment to Article I of the State Constitution. The effect of the law was to explicitly forbid public sector organizations from achieving diversity through affirmative action programs, stating, “*The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.*”

On its surface, Proposition 209 supplemented the Equal Protection Clause of the Fourteenth Amendment by enforcing a uniformity of law, but it was predicated on the assumption that colorblind admissions policies would not have a disparate impact on certain minority groups. The Fourteenth Amendment was the legal basis of the Supreme Court’s decisions in *Regents of the University of California v. Bakke* (1978), *Gratz v. Bollinger* (2003), and *Grutter v. Bollinger* (2003), which held that racial quotas in collegiate admissions were unconstitutional. With respect to the *Bakke* decision, the Supreme Court’s majority opinion was that, “Laws classifying citizens on the basis of race cannot be upheld unless they are narrowly tailored to achieving a compelling state interest.” (O’Brien, p. 780) In the *Gratz* decision, the Supreme Court threw out the University of Michigan’s undergraduate admissions policy of awarding points to minorities as being unconstitutional, while the *Grutter* decision upheld the law school application process as valid, because it was based on what Justice O’Connor described as a “highly individualized, holistic review of each applicant’s file,” rather than a points-

based system with a clear preference for specific racial or ethnic groups. According to Grover Starling, the *Grutter* decision validated diversity as a compelling interest:

From a legal standpoint, the biggest advance on the *Bakke* decision is that Justice O'Connor managed to persuade a majority of the court that racial diversity- rather than a remedy for past injustice- is a public interest compelling enough to justify exceptions to the Constitution's ban on racial discrimination. (Starling, p. 473)

By declaring affirmative action programs to be inconsistent with the Fourteenth Amendment, Proposition 209 precluded the possibility that diversity could be construed as a narrowly tailored, compelling interest for the State of California.

Impact of Prop 209 on Diversity:

Although approved in 1996, Proposition 209 did not take effect until 1998 for UC admissions. It was difficult to assess the initial impact of Proposition 209 on UC admissions in 1998, because the data was vague, with the bulwark of the demographic change for incoming freshman that year reflected in a spike of applicants claiming "Unknown" as their ethnicity. In 1997, this number was 1,472; a year later, it had risen to 6,164- an increase of over three hundred percent.

Since its implementation in 1998, a discernable pattern has emerged, wherein admissions for certain typically underrepresented minority groups have declined, while those for Asian and white applicants have increased accordingly:

The experience of the University of California over the past seven years indicates that in a highly selective institution, implementing race-neutral policies leads to a substantial decline in the proportion of entering students who are African American, American Indian, and Latino. (University of California, 2003)

Berkeley and UCLA, the two flagship campuses of the UC system, have witnessed a steady decrease in admissions for non-Asian minorities, while "The two campuses that

are known to be least selective, Riverside and Santa Cruz, reported increases in minority admissions.” (New York Times, 04/01/98) The current admissions policy fosters homogeneity, and is tantamount to de facto segregation among UC campuses.

Why Diversity Matters:

Despite the elimination of such overt discriminatory policies as those from the Jim Crow era, a more subtle variation persists, which disempowers minorities. Shafritz, et al, define this as subjective discrimination, stating that it is, “the perception by individuals or members of a group that their own situation is discriminatory.” (Shafritz, et al, p. 432) The decline in UC applications by African Americans, Latinos, and Native Americans in the wake of Proposition 209 is a testament to the perception of these groups that a purportedly colorblind admissions policy is merely discrimination in a genteel disguise.

Despite the appeal of a uniform system that strictly compares prospective students on the basis of their grades and test scores, such a system does not prevent claims of discrimination by those whose applications were rejected, nor does it necessarily indicate with any certainty how well a prospective student will perform. When one closely examines the potential harm such a system can create, it is not difficult to see that improvement is necessary. Clearly, the goal of diversity is not to engender lawsuits, but provide individuals from typically underrepresented segments of the population a chance to prove their desire and capacity to learn.

Solutions:

While the University of Michigan's law school successfully created an admissions process that promotes diversity through individual holistic analysis, it would not be feasible to use such a system for UC undergraduate admissions. In 2005, University of California campuses received more than 65,000 applications for resident freshman, alone. The current policy of providing slots to students that meet the minimum requirements to enter the UC at designated overflow schools is not sufficient in addressing diversity concerns, and verges upon de facto segregation. For this reason, it would be prudent for the UC to change its admissions policy to include a section on the application for potential students to describe any lack of educational opportunities or hardships that may have impaired their ability to achieve comparable scores and grades to those students at the highest levels of academic success.

Such a revision to the current admissions policy would not require any additional funds to review, but would necessitate the addition of questions pertaining to the prospective student's family income, highest grade/degree completed by the applicant's parents/guardians, and perhaps an open-ended essay question that would allow the applicant to describe any potential lack of educational opportunities or hardships he or she may have encountered. By emphasizing the socio-economic aspect of the applicant, rather than the racial or ethnic identity, the UC can promote diversity on a case-by-case basis. Taking socio-economic status into consideration for admission would not absolve the applicant from meeting the minimum requirements for entry, and would therefore maintain the positive merit aspect of the current admissions policy.

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