

Research & Occasional Paper Series: CSHE.11.04



UNIVERSITY OF CALIFORNIA, BERKELEY  
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## RETHINKING ADMISSIONS: US PUBLIC UNIVERSITIES IN THE POST-AFFIRMATIVE ACTION AGE \*

October 2004

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### ABSTRACT

In the aftermath of SP-1 and Proposition 209, the University of California has adopted several strategies in order to maintain access. In the long term, the university seeks to work with individual students to improve their academic preparation and to expand partnerships with the K-12 public sector. The state's need to educate more of its minority citizens is urgent, however, so in the shorter term the University has focused on three strategies in its admissions process: comprehensive review, Eligibility in the Local Context (ELC), and the Dual Admissions Program (DAP). The paper also discusses the use of standardized tests in judging students' readiness for university-level work, and especially changes to the SAT tests that have come about partly in response to UC policies. The paper concludes by assessing the ongoing debates over racial preferences in college admissions.

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California's post-affirmative action age began in November 1996, when the voters of that state overwhelmingly approved a ballot measure called Proposition 209, also known as the California Civil Rights Initiative. Proposition 209 banned affirmative action in all public entities in the state, including its public higher education system—the University of

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\* Invited paper at the UK and US Higher Education Finance and Access Symposium, Oxford University, September 29, 2004.

California (UC), the California State University (CSU), and the California Community Colleges (CCC). California had long been among the most active of the states in promoting efforts to expand opportunities for minority citizens in business, government, the professions, and especially education. The success of Proposition 209 meant that, virtually overnight, California became a national leader in dismantling race-attentive programs throughout the public domain.

At the University of California, the new era was already underway. On July 20, 1995, sixteen months before Proposition 209's victory, the University's Board of Regents had approved resolution SP-1, which eliminated the use of race, ethnicity, and gender in decisions about admission. SP-1 was introduced by Regent Ward Connerly, who went on to lead the fight for Proposition 209 in California and against affirmative action in several other US states.

SP-1 and Proposition 209 transformed California into a battleground where opposing views of individual merit, fairness, and educational opportunity struggled to prevail (and still do). They also made the University of California a case study in how an elite public university, required to employ admissions policies that are demonstrably inclusive and fair, responded to the end of nearly 30 years of affirmative action.

This paper will describe the strategies the University of California adopted to maintain access in the aftermath of SP-1 and Proposition 209. It will then discuss a different but related issue: the use of standardized tests in judging students' readiness for university-level work. It will conclude with some comments about the future.

### **A public research university**

The University of California is a multi-campus public research university governed by a 26-member Board of Regents; eighteen are appointed by the governor and the rest are *ex officio*. Of UC's 10 campuses, one is devoted exclusively to the health sciences, and another—UC Merced—is a new general campus that will welcome its first students next year. Competition for admission to UC is fierce; all of our general campuses receive more applications every year than they can accept. Highly selective campuses such as Berkeley, Los Angeles (UCLA), and San Diego are especially competitive. This year, for example, UCLA received more than 43,000 applications for a freshman class of 3,900.

Under California's 1960 Master Plan for Higher Education, UC draws its students from among the state's brightest young people—the top 12-1/2 percent of public high school graduates statewide.<sup>1</sup> Students become eligible for the University by achieving certain grades in a defined set of high school courses (known as a-g courses) and certain scores on nationally administered tests. These requirements are the same throughout the UC system. Any student who meets them is guaranteed a place at UC, although not necessarily at his or her campus of choice.

In addition to UC's eligibility requirements, each campus has a set of selection criteria that it uses to determine which UC-eligible applicants it will accept. These criteria vary from campus to campus. Until 1998, when SP-1 became effective, selection criteria

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<sup>1</sup> The California State University admits from among the top one-third of public high school graduates. The Community Colleges admit any applicant over 18.

included race and ethnicity, and each campus was free to decide how and to what degree it would employ these factors in admitting students.

To understand what is at stake in the debate over affirmative action, it is important to begin with the fact that California is one of the most racially and ethnically diverse societies on the planet. Approximately one in every four Californians was born outside the United States. Latinos—that is, Mexicans and Latin Americans—are California’s fastest-growing minority group. Currently, about half of the state’s 35 million people are white; by 2021 Latinos are expected to constitute the largest single racial/ethnic group in California and, by 2040, a majority of the population.<sup>2</sup>

As a public university, UC is expected to enroll Californians of every racial, economic, and social background. As an elite research university, it is expected to set high academic standards for the students it admits. In a society marked by large disparities of income, opportunity, and the quality of public K-12 schools, these two imperatives are difficult to reconcile. For nearly three decades, affirmative action had been an important tool that allowed UC to admit talented underrepresented minority students who for one reason or another did not meet its academic standards for grades and test scores.

The University of California considers students “underrepresented” if they are members of a racial or ethnic group whose collective eligibility rate for UC is below 12-1/2 percent. These include African Americans, Native Americans, and Chicanos/Latinos. In 2003, for example, the UC eligibility rate was 6.3 percent for African Americans and 6.5 percent for Chicano/Latinos. Whites and Asians, on the other hand, are “overrepresented”—whites qualified for UC at a rate of 16.1 percent and Asians at a remarkable 31.4 percent, even though they constitute a minority within California’s population.

UC practiced affirmative action in two ways: through the use of race and ethnicity as a factor in admissions, and through targeted K-12 outreach programs that sought to motivate students, help teachers, and improve low-performing public schools. Progress in achieving a diverse student body has never been as swift as minority communities, their public representatives, and the University itself could have wished. Nevertheless, between 1980 and 1990 the proportion of underrepresented minority freshman students nearly doubled, from just under 10 percent to 19.4 percent.<sup>3</sup> By 1995, 21 percent of UC’s entering students were underrepresented minorities, a proportion comparable to that of the great private universities in the United States.

### **Rethinking admissions**

Although SP-1 banned the use of racial preferences in admissions, it endorsed the goal of a diverse student body and directed that an Outreach Task Force be established to recommend ways to bolster the academic preparation of *all* K-12 students in California. The Task Force’s most important recommendations were first, to concentrate on working with individual students to improve their academic preparation and, second, to expand UC’s partnerships with the K-12 public sector to strengthen the lowest-performing schools. The children enrolled in these schools come overwhelmingly from poor

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<sup>2</sup> Hans P. Johnson, “California’s Demographic Future,” Occasional paper, Public Policy Institute of California, December 5, 2003.

<sup>3</sup> “Undergraduate Access to the University of California after the Elimination of Race-Conscious Policies,” Office of the President, no date.

communities and include disproportionate numbers of African American, Native American, and Latino students.

At the time SP-1 was approved, UC already had over 800 outreach programs that constituted the largest school-university partnership in the nation. With the state's help, between 1998 and 2001 the University extended its work in outreach to many more students and schools throughout California. Improving the performance of California's struggling public schools was also a priority of the governor, and at his request the University added a number of programs to strengthen the K-12 teaching profession in 1999.

Outreach is clearly a long-term strategy, however, and the state's need to educate more of its minority citizens is urgent. Were there ways of thinking about admissions that did not focus directly on race and ethnicity as previous policies and practices had done? And was it possible to make the admissions process not just more inclusive, consistent with Proposition 209, but also more sensitive to evidence of students' potential and achievement?

It was clear from the outset that one frequently mentioned alternative—low-income status—would not work as a substitute for race and ethnicity, if the goal was a more diverse student body. UC's own studies indicated that using economic disadvantage instead of race would result in more white and Asian students becoming eligible, not more underrepresented minorities. Other possibilities would need to be considered.

Between July 1995, when SP-1 was passed, and the end of 2003, the University of California adopted three new paths to admission and initiated fundamental changes in its standardized test requirements. All are described in the appendix to this paper. In brief:

**Comprehensive review:** For almost 30 years, UC had employed a two-tier admissions process in which 40-60 percent of each freshman class was selected based on grades and test scores alone, with the balance admitted using a combination of grades, test scores, and other criteria, such as special talents or achievements. Comprehensive review eliminates these two tiers. Now *all* applicants are assessed in terms of a broad range of academic and personal characteristics.

Further, applicants' records are evaluated in the context of the personal and educational circumstances in which they have achieved academically. How have they used their opportunities to learn? In what ways have they dealt with educational or economic disadvantages—attending a school that offers few mathematics courses, for example, or coming from a poor family in which no one has ever gone on to college before? What special talents will they bring to a UC campus and later to society? Have they shown the motivation and determination to succeed at a demanding course of study? The full list of criteria employed in comprehensive review can be found in the appendix.

Comprehensive review of undergraduate applications began in fall 2002. The Board of Admissions and Relations with Schools (BOARS), the UC faculty senate body responsible for admissions issues, conducted assessments of the new approach in both 2002 and 2003. BOARS' conclusion is that the shift to comprehensive review has been highly successful. Its 2003 report points out that, by virtually every quantifiable measure, the academic preparation of the students admitted under comprehensive review has

been exceptionally strong. At the same time, the proportions of disadvantaged students admitted to UC's more selective campuses have not declined but increased.

***Eligibility in the Local Context (ELC):*** Under the Master Plan, to be eligible for UC, students must rank in the highest 12-1/2 percent of high school graduating classes throughout the state—in other words, students become eligible in the *statewide* context. Students who rank in the top four percent of their *individual* high school class can now qualify under the Eligibility in the Local Context program. Like statewide-eligible students, they must also complete UC's required a-g courses. A major goal of ELC is to extend the opportunity for a UC education to schools that historically have sent few students to our campuses.

In the three years since its inception, the ELC program has yielded an unexpected result. Although it was assumed at the outset of the program in 2001 that a significant number of students in the top four percent of disadvantaged high schools would be eligible *only* through ELC, this has not turned out to be the case. There has been much more overlap between students in the upper four percent of their local high school and students in the top 12-1/2 percent of high school seniors statewide than initially anticipated. There are several likely reasons for this. Once the program was introduced, a number of disadvantaged California high schools that had not offered all of the a-g courses UC requires started to do so—and more students in those high schools began taking them. Another factor is the University's efforts to let students, parents, and counselors know about ELC and UC's entrance requirements. Every high school student eligible for the program was sent a letter from the president of UC. This letter congratulated them on qualifying for ELC and encouraged them to complete the necessary courses and tests. Some students were already eligible for UC but simply did not realize that fact until they learned of their inclusion in ELC. Others who lacked a particular course or had not taken a required standardized test did so as a result of the letter. In sum, an important outcome of the program was to motivate many more students to aspire to a UC education and more schools to offer the courses and information students need to qualify. Now virtually all of the students in the top four percent of their high school class have compiled academic records that make them eligible for UC on a *statewide* basis.

Eligibility in the Local Context has some similarities to the Top Ten Percent Program, adopted at the University of Texas (UT) in the wake of a 1996 court decision outlawing affirmative action in the state. Under this program, students in the top 10 percent of their high school class are eligible for admission to the University of Texas system. There are significant differences, however. Under the Texas program, each high school ranks students; there are no required courses involved in determining eligibility; and students can attend any UT campus, which has meant that the main UT campus at Austin has been flooded with students. In contrast, UC defines the top four percent of each California high school by evaluating transcripts; requires successful completion of a-g courses; and promises only admission to a UC campus, not necessarily the campus of choice.

***Dual Admissions Program (DAP):*** For students who fell below the top four percent but within the top 12-1/2 percent of each California high school graduating class, UC established a third new path to admission, the Dual Admissions Program. Students eligible for DAP were offered simultaneous admission to a community college and a specific UC campus, with the proviso that they must fulfill their freshman and sophomore

requirements at the community college with a solid grade-point average before transferring to a UC campus. A small number of students will enter a community college under DAP this fall and presumably transfer to UC in 2006. The future of the program is in question, however; support for it was deleted from the 2004-5 state budget because of California's fiscal crisis.

Academic achievement is the paramount consideration in all three of these programs. None employs race or ethnicity. They explicitly recognize, however, that academic merit can be demonstrated in different ways in different educational settings. They rely less on rigid formulas and quantitative measures, more on qualitative assessments of academic merit, including the personal and educational context in which students have qualified themselves to pursue a university education.

The changes in UC admissions policy have another characteristic worth noting. It has long been a goal at UC to admit a class of students that reflects a diversity of academic accomplishments and life challenges—not just racial and ethnic diversity, but also diversity of social, economic, and intellectual backgrounds. These new approaches give admissions officers far more information and flexibility in carrying out that critical task. However, an overriding question remains: will UC's new admissions policies expand the racial and ethnic diversity of its student body? So far, the results are mixed.

In 1998, the year in which SP-1 was implemented, every UC campus saw a drop in the proportion of underrepresented students in its freshman class. At some campuses the decline was dramatic—more than 20 percent at UC Berkeley, UC Davis, and UC San Diego, and more than 15 percent at UCLA and UC Santa Barbara.<sup>4</sup> The proportion of underrepresented minority students in UC's freshman class has risen in five of the past six years. In 2003, underrepresented minorities constituted 19.2 percent of all entering students—close to the pre-SP-1 figure of approximately 21 percent in 1995. But at the more selective campuses, particularly Berkeley and UCLA, the numbers remain far below their previous levels.

The gap between the percentage of underrepresented minorities in the California graduating high school class and the percentage in the UC freshman class has widened appreciably. In 1995, 38 percent of California public high school graduates were underrepresented minority students, as were 21 percent of UC freshmen—a gap of 17 percentage points. In 2002, the figures were 42 percent in the statewide high school graduating class and 18 percent in the UC freshman class—a gap of 24 percentage points.

Perhaps most troubling of all is the future. Even if SP-1 and Proposition 209 had never happened, the University's own studies reveal an increasing gap between the students it is enrolling and the society it serves. A study done by UC in 2000 pointed out that "those groups with the lowest UC-eligibility rates, Chicanos/Latinos and African Americans, will together account for about 70% of the total increase in public high school graduates between now and 2008."<sup>5</sup> These are trends the University cannot ignore.

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<sup>4</sup> "Undergraduate Access to the University of California after the Elimination of Race-Conscious Policies," p. 18.

<sup>5</sup> Saul Geiser, Carla Ferri, and Judy Kowarsky, "Admissions Briefing Paper - Underrepresented Minority Admissions at UC after SP-1 and Proposition 209: Trends, Issues and Options," p. 6

### Other possible strategies

Additional strategies are worth considering. The first is specific to UC. It is to raise the proportion of students who qualify for the Eligibility in the Local Context program. Given that most of the students now eligible for UC through this program would have qualified anyway, it makes sense to consider enlarging ELC to include the top six percent, or even the top eight percent, of each California high school rather than the current four percent. A simulation study by UC researchers Saul Geiser and Roger Studley<sup>6</sup> assessed the results of changing the ELC percentage from four to six, eight, ten, or 12.5 percent. The difference between the academic level of regularly eligible students and that of students eligible through the local context is smallest under the six- and eight-percent scenarios. Expanding ELC from four to six percent would mean that an additional 700 underrepresented minority students would become eligible for UC, an increase of seven percent. An additional 1400 underrepresented students, an increase of 13 percent, would become eligible under the eight-percent scenario.

Another strategy is one that only the state can accomplish because it involves not just the University of California but its sister institution, the California State University. It is to reconsider the limits imposed by the 1960 Master Plan for Higher Education on the pool of students from which UC and CSU can draw their undergraduate students, namely, the top 12-1/2 percent for UC and the top 33-1/3 percent for CSU. Those limits were appropriate in 1960, when a far smaller proportion of California high school graduates went on to higher education. Today, they no longer make educational or demographic sense. A reasonable goal would be to expand UC's statewide pool of students from 12-1/2 to 15 percent of public high school graduates, with a proportional increase in students eligible for CSU.

This means, of course, that the state of California must find ways to pay the costs of educating these additional students. State support for public colleges and universities has been plummeting just as a new generation of students, larger than any since the 1960s, is coming of age—a combination of circumstances that is putting enormous pressure on all of public higher education. But California would reap significant benefits from raising the current Master Plan limits. Despite a reputation for widespread access to higher education, California suffers a dramatic shortfall in baccalaureate degrees. We languish near the bottom—46th among the 50 US states—in the proportion of bachelor's degrees awarded to students in the 18-to-29-year old population.

There are two major reasons for California's predicament. First, national data show a definite pattern: states that are higher in producing bachelor's degrees are those that enroll a higher proportion of their college-age population in four-year colleges and universities. California ranks 48<sup>th</sup> by this measure.

Second, a substantial body of research demonstrates that, after taking into account differences in ability and income, students who begin their undergraduate careers at four-year institutions are much more likely to earn a bachelor's degree than those who enter a two-year community college intending to transfer.

What the data suggest is clear: if California wants more of its young people to earn

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<sup>6</sup> Saul Geiser and Roger Studley, "Expanding UC Eligibility in the Local Context beyond 4% by School: Simulation Results," UC Office of the President.

bachelor's degrees, it should adopt policies that encourage more students to embark on their undergraduate education at a four-year college or university. Raising the Master Plan limits at UC and CSU is an important first step toward that goal and toward the goal of educating more of the state's minority citizens.

### **Standardized tests and the SAT**

UC has made one further change regarding admissions that deserves to be considered on its own because it is a national issue: the use of standardized tests in evaluating students. After World War II, colleges and universities in the United States gradually adopted standardized tests as part of their admissions process. Over time the Scholastic Aptitude Test, known as the SAT, established itself as the most influential college admissions examination in the country. The test has become a key factor in determining who is admitted—and who is rejected—at the more selective US institutions. The major claim about the utility of the SAT rests on its supposed capacity to tell us how students will do in their college years.

The College Board (the non-profit organization that owns the SAT) has made a series of changes in the test since its inception. The original SAT became the SAT I—a three-hour test that continued to focus on verbal aptitude but added a quantitative section covering mathematical topics typically taught in grades one through eight. In addition, the College Board developed 23 one-hour SAT II tests designed to measure a student's achievement in specific subjects such as physics, chemistry, history, mathematics, writing, and foreign languages. Most colleges and universities required just the SAT I, but a few required the SAT I plus two or three SAT II tests. UC has used the SAT I and three SAT II tests in admissions in various ways since 1968. In 1995, UC test requirements were altered to give a relative weight of one on the SAT I compared with a weight of three on the SAT II tests (writing, mathematics, and a third test of the student's choice).

In February of 2001, Richard Atkinson (the first author of this paper) recommended that UC cease using the SAT I and rely on SAT II tests until an appropriate achievement-oriented test could be developed to replace the SAT I. Aptitude tests such as the SAT I, he argued, are predicated on the mistaken notion that human intelligence is a unitary attribute that can be accurately measured and students ranked accordingly. Achievement tests, in contrast, are fairer to students because they bear a demonstrable relationship to the curriculum that students take in preparation for university work. Further, the message achievement tests send is that students can improve their performance by application and hard work. The Academic Senate agreed. It began exploring various options for replacing the SAT I with achievement tests.

A few months later, two researchers at the Office of the President, Saul Geiser and Roger Studley, completed a seminal study on the predictive validity of the SAT I and the SAT II. As one of the nation's largest users of the SAT, UC is perhaps the only university in the US that has a data base large enough to compare the predictive power of the SAT I with that of the SAT II achievement tests. By 2001 UC had four years of data under its 1996 policy on all freshmen who enrolled at a UC campus—approximately 78,000 student protocols. A student protocol included the student's high school grades, SAT I scores (verbal and quantitative), three SAT II scores, family income, family educational background, the quality of the high school the student attended,

race/ethnicity, and several other variables. And, of course, the protocol included the course-by-course grade record of the student in her or his freshman year at a UC campus.

The Geiser/Studley study examined the effectiveness of high school grades and various combinations of SAT I and SAT II scores in predicting success in the University. A full account of the study has been published in the journal *Educational Assessment* and online.<sup>7</sup>

In brief, the study shows that the SAT II is a far better predictor of college grades than the SAT I. The combination of high school grades and the three SAT II tests accounts for 22.2 percent of the variance in first-year college grades. When the SAT I is added to the combination of high school grades and the SAT II test scores, the explained variance increases from 22.2 percent to 22.3 percent, a trivial increment.

The data indicate that the predictive validity of the SAT II is much less affected by differences in socioeconomic background than is the SAT I. After controlling for family income and parents' education, the predictive power of the SAT II is undiminished, whereas the relationship between SAT I scores and UC grades virtually disappears. The SAT II is not only a better predictor, but also a fairer test insofar as it is demonstrably less sensitive than the SAT I to differences in family income and parents' education.

These findings for the full UC data set hold equally well for three major disciplinary subsets of the data: 1) Physical Sciences/Mathematics/Engineering, 2) Biological Sciences, and 3) Social Sciences/Humanities. Across these disciplinary areas, SAT II is consistently a better predictor of student performance than SAT I.

Analyses with respect to the racial-ethnic impact of SAT I versus SAT II indicate that, in general, there are only minor differences. The SAT II is a slightly better predictor of UC grades for most racial-ethnic groups than the SAT I, but both tests tend to "over-predict" freshman grades for underrepresented minority students to a small but measurable extent. Eliminating SAT I in favor of SAT II would have little effect on rates of UC eligibility and admissions among students from different racial and ethnic groups.

The UC data yield another interesting result. Of the various tests that make up the SAT I (verbal and quantitative) and the three SAT II tests, the best single predictor of student performance was the SAT II writing test. Given the importance of writing ability at the university level, it should not be surprising that a test of actual writing skills correlates strongly with university grades.

The College Board's initial reaction to the proposal to end use of the SAT I at UC was understandably negative. But with the publication of the Geiser/Studley study, opposition to a change in the SAT I quickly died out. In March 2002, the president of the College Board, Gaston Caperton, announced that the Board would eliminate the SAT I as it then stood and replace it—on a national basis—with a new test very much in accord with the planning that UC faculty had already done. It will include more advanced

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<sup>7</sup> Saul Geiser and Roger Studley, "UC and the SAT: Predictive Validity and Differential Impact of the SAT I and SAT II at the University of California," *Educational Assessment*, Vol. 8, no. 1, pp. 1-26. It is also available online at [http://www.ucop.edu/sas/researchandplanning/pdf/sat\\_study.pdf](http://www.ucop.edu/sas/researchandplanning/pdf/sat_study.pdf).

mathematics, an expanded reading-comprehension section, and, for the first time, it will require a written essay.

The new test will be in use for students entering universities in Fall 2006. In a remarkably short time, university admissions in the US will have undergone a revolutionary change—a change that will affect millions of young people.

One of the clear lessons of history is that US colleges and universities, through their admissions requirements, strongly influence what is taught in the nation's high schools. The most important reason for changing the SAT is to send a strong message to K-12 students, their teachers, and their parents that learning to write and mastering a solid background in mathematics are of critical importance. The changes being made in the test by the College Board go a long way toward accomplishing that goal. Many high schools have already introduced intensive writing programs for students in anticipation of the new essay requirement.

From UC's perspective, the advantage of the new test is that SAT I now offers a better baseline assessment of a student's abilities in the basic skills of writing and mathematics. The combination of the new SAT I, three required SAT II achievement tests, and high-school grades yields a far broader picture of students' readiness for university-level work than we have had in the past. And as a result of intense faculty discussion of testing in the admissions process, the Academic Senate has approved a set of principles to guide the future use of *any* standardized test at UC. These principles are included in the appendix.

### **The battle over racial preferences**

So far this paper has discussed the University of California's response to the challenges posed by SP-1 and Proposition 209. But what about the future? Are there any general conclusions that can be drawn from California's experience in the post-affirmative action age?

The first thing to be said is that the term "post-affirmative action age" is premature. California and Washington have banned racial preferences through the ballot box. Florida ended affirmative action in 1999 via an executive order by the state's governor. Court rulings and state policies have affected some universities in other states. But affirmative action is still the law in many parts of the United States and in areas besides education, such as hiring and contracting.

The second point to be made is that UC's struggles to reconcile access with high academic standards are not immediately relevant to most public universities in the US. The majority of these universities are inclusive by design and admit just about every undergraduate student who applies.

Yet for the handful of elite public universities—the University of Michigan, the University of Wisconsin, and the University of Virginia, for example—the history of admissions at UC in the post-affirmative action era is a cautionary tale. The past nine years have demonstrated that, if race cannot be factored into admissions decisions, the ethnic diversity of an elite public institution will fall far behind that of the state it serves. In

California, SP-1 and Proposition 209 did not create that gap. But they have made it far more difficult to bridge.

UC's experience may take on wider significance over time, however. Of all the pressures on public universities, one of the most powerful and persistent is the pressure to extend educational opportunity widely. As a matter of both philosophy and politics, no US public university can survive over the long term unless its students, faculty, and staff reflect in some approximate but genuine fashion the people who support it. As the United States continues the trend toward a more ethnically and racially diverse society, other public universities will face some of the issues and pressures UC has faced. The debate has been joined earlier in California than elsewhere, but diversity is not a uniquely Californian issue. As Peter Schrag has observed in his study of late-twentieth-century California, "Things had better work here, where the new American society is first coming into full view, because if it fails here, it may never work anywhere else either."<sup>8</sup>

In the United States, many controversial social issues are played out in courts of law. Over the past 25 years, the US Supreme Court has twice upheld the use of race and ethnicity as one factor among others in admissions decisions. In the first case, *Bakke v. The Regents of the University of California* (1978), the court was divided. But while no rationale garnered support from a majority of the court, Justice Lewis Powell's tie-breaking opinion held that a diverse student body serves compelling educational and state interests.

In 1996, the Fifth Circuit Court struck down the use of affirmative action in those states (Texas, Louisiana, and Mississippi) within the court's jurisdiction in *Hopwood v. Texas*. When two affirmative action cases involving the University of Michigan at Ann Arbor came before the Supreme Court last year, many expected the court to follow the Fifth Circuit and declare affirmative action unconstitutional. But in the end, a majority of the justices followed Powell's reasoning in *Bakke* and once again upheld the constitutionality of using race and ethnicity in decisions about admission. At the same time, the court emphasized that such programs must be "narrowly tailored" to achieve the educational goal of a diverse student body.

The Supreme Court's action overturned the *Hopwood* decision. The president of the University of Texas announced soon thereafter that the university will reinstate race and ethnicity as a factor in admissions--evidence that, in the Texas context at least, eight years without affirmative action have failed to yield an effective substitute. UT will continue its undergraduate Top Ten Percent Program, which is mandated by Texas law. The program has recently come under criticism, however. Seventy percent of the 2003 freshman class at the Austin campus was automatically admitted under the plan; so many Top Ten Percent students choose to enroll at Austin and at UT's other flagship campus, Texas A&M at College Station, that institutional flexibility has suffered.<sup>9</sup>

Legal challenges to affirmative action will continue, including challenges to race-attentive scholarship and financial aid programs, which the Supreme Court did not address in the Michigan cases. In anticipation of this possibility, some US universities are opening their minority programs to students of any race. It is unclear at this point how many

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<sup>8</sup> Peter Schrag, *Paradise Lost: California's Experience, America's Future* (New York: The New Press, 1998), p. 23.

<sup>9</sup> "Texas' 10-Percent Plan: The Truth behind the Numbers," *Chronicle of Higher Education*, January 23, 2004.

universities will do so and what the scope and effect of the changes will be.

What *is* clear is that the battle over racial preferences is far from over. A huge philosophical divide separates those who defend racial preferences and those who condemn them. Supporters of affirmative action argue that it is simply a matter of social justice to help the traditionally excluded find a place in the American dream. Opponents argue that preferences are deeply unfair to individuals who are not members of minority groups, and that affirmative action fosters a culture of dependence among its supposed beneficiaries. In the American context, where education is universally viewed as the key to social and economic upward mobility, these are both powerful arguments. A middle ground between the two positions is only beginning to be explored.

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## APPENDIX

### ***University of California admissions policy***

The goal of undergraduate admissions policy at the University of California, as stated in the policy adopted by The Regents in 1988, is:

*to 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.*

Admission to the University of California is a two-step process:

1. UC's *eligibility* criteria identify the top 12-1/2 percent of California public high school graduates specified in California's 1960 Master Plan for Higher Education. The eligibility criteria are entirely academic and include completion of the UC "a-g" college preparatory curriculum, grades earned in those courses, and scores on five standardized admissions tests. The a-g courses are history/social science, English, mathematics, laboratory science, language other than English, visual and performing arts, and an elective. These requirements are intended to ensure that all students deemed UC-eligible are academically prepared to succeed on any UC campus. According to the Master Plan, any student who meets the University's eligibility criteria and applies for admission is guaranteed a place on at least one UC campus. Although it is also possible for students to attain eligibility through examination alone by achieving certain very high scores on UC's required standardized tests, the vast majority of students qualify through membership in the top 12-1/2 percent of California high school graduates—*Eligibility in the Statewide Context*.
2. The *admissions* process, also known as *selection*, essentially allocates these UC-eligible applicants among the campuses, based on campus goals that are expressed in campus selection policies. Academic criteria dominate the selection process (known as "comprehensive review") and the likelihood of admission at any given campus is significantly higher for students with stronger academic qualifications than for those with weaker profiles. Nonetheless, like all highly selective institutions, UC campuses also consider a variety of factors that serve both academic and institutional goals. For example, in order to create a vibrant learning community, all campuses strive to admit students with a range of personal experiences and backgrounds, as well as a range of academic interests.

Source: "Final Report to the President," Eligibility and Admissions Study Group, April 2004, p. 2

### ***New paths to admission and changes in standardized test requirements, 2001 - 2003***

**Eligibility in the Local Context**, first implemented in Fall 2001, makes the top four percent of students in *each* California high school eligible for UC if they complete specific academic course work by the end of their junior year. To be considered for admission and enrollment at UC, ELC students must apply for admission and complete UC's required courses and the standardized testing requirement by the end of their senior year. This path supplements *Eligibility in the Statewide Context*, described in the section above as the top 12-1/2 of California public high school graduates throughout the state.

Participating schools submit the transcripts of the top 10 percent of their junior-year students to the University. UC then evaluates the transcripts and identifies the top four percent. Each of these students receives an application and a letter from the president of UC inviting them to apply; the remaining six percent evaluated by UC also receive an application and a letter encouraging them to apply, even though they are not eligible to do so through ELC. Each UC campus is involved in getting in touch with students and helping them with the application process. Ninety-eight percent of California public schools now participate in ELC.

**Comprehensive review** eliminated the practice of selecting a fixed percentage of each freshman class solely on the basis of certain academic criteria. Instead, as of Fall 2002 every applicant is evaluated in terms of a broad variety of academic and personal characteristics. Comprehensive review also takes into account the context in which students have demonstrated academic accomplishment, including the obstacles they have overcome. Each campus has broad discretion in employing the criteria to be used in comprehensive review:

- High school grade-point average in UC-required courses;
- Standardized test scores;
- Number of, content of, and performance in academic courses completed beyond the University's minimum eligibility requirements;
- Number of, and performance in, honors and Advanced Placement courses;
- Identification as "Eligible in the Local Context" by ranking in the top four percent of the high school class, as determined by the University's academic criteria;
- Quality of the senior year program, as measured by the type and number of academic courses in progress or planned;
- Quality of academic performance relative to educational opportunities available in the applicant's school;
- Outstanding performance in one or more academic subject areas;
- Outstanding work in one or more special projects in any academic field;
- Recent marked improvement in academic performance;
- Special talents, achievements, and awards in a particular field, or experiences that demonstrate unusual promise for leadership or ability to contribute to the intellectual vitality of the campus;
- Completion of special projects that offer significant evidence of an applicant's special effort and determination or that may indicate special suitability to an academic program on a specific campus;

- Academic accomplishments in light of an applicant's life experiences and special circumstances, such as disabilities, low family income, first generation to attend college, need to work, disadvantaged social or educational environment, difficult personal and family situations or circumstances, refugee status or veteran status;
- Location of the applicant's secondary school and residence, to provide for geographic diversity in the student population and to account for the wide variety of educational environments existing in California.

**The Dual Admissions Program (DAP)** grants admission to students in the top four to 12.5 percent of the class in each public high school, with the understanding that they successfully complete their first two years at a California community college. Students are simultaneously admitted to a community college and to a specific UC campus.

A small number of students entered community colleges this fall under the Dual Admissions Program. DAP was approved by The Regents in 2001 with the proviso that funds to support it must be included in the State budget. Because of California's fiscal difficulties, funding for the program was dropped from the 2004-5 State budget, and as a result DAP has been suspended.

Since the late 1960s, the University of California's **standardized test requirements** have included the submission of scores from four standardized admissions tests: the SAT I (a two-part test in verbal reasoning and mathematical reasoning) or ACT (a test designed to assess students' critical reasoning and higher-order thinking skills in English, mathematics, reading, and science reasoning), and three SAT II achievement tests in specific subjects, including the natural and social sciences, languages and literature, writing, and two different levels of mathematics.

In 2001, at President Atkinson's request, the Academic Senate's Board of Admissions and Relations with Schools (BOARS) undertook an examination of the University's use of standardized tests. BOARS concluded that 1) standardized tests serve a useful purpose in the University's admission system; 2) the SAT II achievement tests were at least as effective as the SAT I in predicting student performance in their college years; and 3) achievement-oriented tests were "both useful to the University in identifying high-achieving students and philosophically preferable to tests [such as the SAT I] that purport to measure aptitude." BOARS recommended that UC change its test requirements to include 1) a core achievement examination that assesses mastery of reading and writing (including a writing sample) and mathematics, and 2) two one-hour long examinations in subjects covered by UC's a-g requirements, with some level of student choice in selecting these tests.

Finally, BOARS articulated a set of principles to guide the choice of admissions tests within the University of California:

1. Admissions tests will be used at the University of California
  - a. To assess academic preparation and achievement of UC applicants;
  - b. To predict success at UC beyond that predicted by high school grade point average (GPA);
  - c. To aid in establishing UC eligibility; and
  - d. To aid in selecting students for admission at individual UC campuses.

2. The desired properties of admissions tests to be used for these purposes include the following:
  - a. An admissions test should be a reliable measurement that provides uniform assessment and should be fair across demographic groups.
  - b. An admissions test should measure levels of mastery of content in UC-approved high school preparatory course work and should provide information to students, parents, and educators enabling them to identify academic strengths and weaknesses.
  - c. An admissions test should be demonstrably useful in predicting student success at UC and provide information beyond that which is contained in other parts of the application. (It is recognized that predictors of success are currently limited, and generally only include first-year college GPA and graduation rate. As this field advances, better predictors should be identified and used in validating admissions tests.)
  - d. An admissions test should be useful in a way that justifies its social and monetary costs.

*Source:* "The Use of Admissions Tests by the University of California," Board of Admissions and Relations with Schools, January 2002.