WIDENING THE RIVER: CHALLENGING UNEQUAL SCHOOLS IN ORDER TO CONTEST PROPOSITION 209

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INTRODUCTION

Proposition 209 was voted into law in California on November 5, 1996. Its essential provision states:

> The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis or race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.[1]

Other states, including Washington[2] and Michigan[3], have adopted practically identical state anti-preference laws.[4]

To contest Proposition 209, attorneys, students, and social science researchers worked together on several lawsuits in California. These cases sought to challenge the lack of equitable access to quality K-12 education, highlighting the need for race-conscious affirmative action in higher education in the process. As one civil rights attorney working on one of the lawsuits said,

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1. CAL. CONST., art. I, § 31(a) (2006).

2. Washington Initiative 200 was passed by voters in 1998, adding § 49.60.400(1) to the Washington state code. *See* WASH. REV. CODE § 49.60.400(1) (2006).

3. Michigan Proposition 2 passed in November 2006, adding Section 26 of Article I to the Michigan Constitution. *See* MICH. CONST., art. I, § 26 (2006).

4. Like Proposition 209, the Washington and Michigan state anti-preference laws provide that "[t]he state shall not discriminate against, or grant preferential treatment to any individual or group on the basis of race . . . in the operation of pubic employment, public education or public contracting." WASH. REV. CODE § 49.60.400(1); MICH. CONST., art. I, § 26(2).

> The impetus for the case would have to be the end of affirmative action in greater California. We were first and foremost trying to address the huge drop in admissions numbers [for underrepresented students of color], it was disastrous . . . the case really was about making the U.C. admissions process more fair, to make it a more complete definition of merit.[5]

Two cases directly challenged the "race-neutral" academic admission factors used at the University of California after the passage of Proposition 209. In *Daniel v. California,* Plaintiffs asserted that low-income African American and Latino students in particular were disproportionately disadvantaged by lack of access to Advanced Placement (AP) college preparatory classes.[6] Further, Plaintiffs argued that AP classes had become a *de facto* admission requirement at the University of California.[7]

In *Castañeda v. Regents of the University of California,* the NAACP Legal Defense Fund and other organizations represented students who were denied admission to University of California, Berkeley (U.C. Berkeley).[8] The African-American, Latino, and Filipino American applicants to U.C. Berkeley alleged that the University's admission procedures unfairly disadvantaged applicants of color in violation of their federal civil rights by not taking into account the full range of indicators of academic "merit." A major focus of the litigation was U.C. Berkeley's admission process and whether it overly favored students who had taken AP courses.[9] The social science researchers who worked on the *Daniel* and *Castañeda* cases showed that underrepresented students of color were not provided equal access to college preparatory coursework.[10] The *Castañeda* case resulted in a settlement agreement, whereas the *Daniel* case was dismissed after legislation was passed to increase the number of AP courses in California.

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5. Interview with Attorney representing Applicants (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" Institutional Review Board (IRB) Protocol No. 0212S38501), Los Angeles, CA, (Jan. 18, 2004). The interviews in this article were conducted pursuant to a human subjects protocol, approved by the Institutional Review Board (IRB) at the University of Minnesota. Names of interview subjects and the organizations they are affiliated with are not provided in this article pursuant to the IRB approved protocol.

6. Daniel v. California, No. BC214156 (L.A. Super. Ct. dismissed 2005).

7. *Id.* at 16.

8. Castañeda v. Regents of the University of California, No. C99-0525 (N.D. Cal. Feb. 2, 1999) (consent decree approved June 9, 2003). The case was originally filed as *Rios v. Regents of the University of California* and subsequently amended to *Castañeda v. Regents of the University of California.*

9. First Amended Complaint of Plaintiffs, Castañeda v. Regents of the University of California, No. C99-0525 (N.D. Cal. filed Feb. 2, 1999) (hereinafter *Castañeda* Complaint) at 1.

10. *See infra* Section III.

A third lawsuit, *Williams v. California,* was a statewide challenge to the deplorable conditions in California public schools.[11] The lack of textbooks, qualified teachers, and in some classrooms, no teacher at all, were documented by a number of research reports.[12] The attorneys and researchers argued that children were being denied the opportunity to learn, in violation of their civil rights.[13] In 2004, the case was settled and five state bills were passed to ensure that all schools in the state have sufficient instructional materials and teachers.[14] Again, like *Daniel* and *Castañeda*, the *Williams* case did not contest Proposition 209 directly. Rather, these cases, taken together, challenge the presuppositions under-girding initiatives that end race-based affirmative action in college admissions. That is, the notion that grades, rigor of high school curriculum, standardized test scores, and other so-called academic indicators are race neutral and measure merit.

This article focuses on unequal access to AP classes administered by the College Board. By focusing on AP classes, I do not want to suggest that access to AP classes automatically means that a student is receiving a rigorous education and an opportunity to learn. As the *Williams* case documented, many AP course offerings in California schools were in name only. The *Williams* team was able to document AP classrooms where the teacher had not taken coursework in the AP subject matter and no books were available.[15] There were even classes that had no teacher assigned to teach them.[16] Therefore, I focus on AP courses not because I believe they guarantee a quality education, but rather because they are the most commonly offered college preparatory courses in the United States (U.S.) and viewed by many as a way to ensure that students are prepared for college. In addition, many select colleges and universities, including the University of California, assign additional weight to AP courses in the admis-

11. Williams v. State of California, No. 312236 (Cal. Super. Ct. S.F. County filed May 17, 2000). On December 10, 2004, the San Francisco County Superior Court approved the notice of settlement in *Williams v. State of California.*

12. See Expert Report of Jeannie Oakes, Williams v. California, No. 312236 (Cal. Super. Ct. S.F. County May 17, 2000), *reprinted in* Jeannie Oakes, *Education Inadequacy, Equality, and Failed State Policy: A Synthesis of Expert Reports Prepared for* Williams v. State of California, 43 SANTA CLARA L. REV. 1305 (2003), for a comprehensive analysis of the *Williams* research.

13. First Amended Complaint of Plaintiffs, Williams v. California, No. 312236 (Cal. Super. Ct. S.F. County filed May 17, 2000) (hereinafter *Williams* Complaint)

14. On December 10, 2004, the San Francisco County Superior Court approved the notice of settlement in *Williams, et al. v. State of California, et al.* For a detailed explanation of the settlement agreement, see the California Department of Education's website at http://www.cde.ca.gov/eo/ce/wc/wmslawsuit.asp.

15. *Id.*

16. *Id.*

sion process.[17] After completing an AP course, students have the opportunity to take an AP examination in that particular subject matter. If a student receives a passing grade on an AP examination, ninety percent of the colleges and universities in the U.S. will provide free college credit and allow the student to opt out of specific introductory classes.[18] The University of California and the California State University system follow this policy as well.[19]

This seemingly neutral process in university admissions actually reinforces inequality. Over forty percent of U.S. high schools do not offer AP classes and students in urban and rural communities are the least likely to have access to AP courses.[20] In addition, the availability of college preparatory programs and other advanced course-work in high school decreases as the percentage of students of color and low-income students increases.[21] Thus, access to AP classes is a critical civil rights issue and informs the Proposition 209 debate.

This article addresses legal challenges to unequal academic preparation as a way to underscore the inherent problems with Proposition 209 and the increasing emphasis on academic indicators that are falsely assumed to be neutral gauges of meritocracy. After a brief discussion of the facts and outcomes in the three lawsuits, data obtained from the College Board on the schools named in the cases will be utilized to describe the unequal distribution of AP courses in California — both before and after passage of Proposition 209. Admission policies and AP course data from the University of California and California State Universities will also be analyzed to provide a picture of how college preparatory classes impact access to higher education. Potential civil rights challenges to unequal access to AP courses will be explored, as will the potential utility of these cases as a strategy to contest Proposition 209. Qualitative data obtained from interviews with the attorneys and experts involved in the *Castañeda*, *Daniel*, and *Williams* cases will also be analyzed with the ultimate goal of developing more effective ways for attorneys and re-

17. College Board, AP Credit Policy Info, http://collegesearch.collegeboard.com/apcreditpolicy/index.jsp (last visited June 16, 2008).

18. College Board, AP Central, http://apcentral.collegeboard.com/apc/public/colleges/index.html (last visited June 16, 2008).

19. *Id.*

20. *Id.* COLLEGE BOARD, SCHOOL REPORT OF AP EXAMINATIONS 2005-2006 (BY STATE) (2006), *available at* http://apcentral.collegeboard.com/apc/public/repository/ap06_school_rpt_exams.pdf.

21. *See, e.g.*, COLLEGE BOARD, ACCESS TO EXCELLENCE: A REPORT OF THE COMMISSION ON THE FUTURE OF THE ADVANCED PLACEMENT PROGRAM 3-5 (2001).

searchers to work together to increase access to higher education.

I. METHODOLOGY

This article combines legal research and analysis with in-person interviews conducted with many of the attorneys and expert witnesses involved in the *Castañeda, Daniel,* and *Williams* cases. The research is guided by Legal Mobilization Theory and uses case study techniques. Legal Mobilization Theory argues that litigants are political actors, whose social identities influence their decision to use the law to bring about social change.[22] Research conducted utilizing Legal Mobilization Theory utilizes the case study method, including qualitative interviews, to understand litigants as social actors.

The most common sources of evidence in conducting a case study are documentation, archival records, interviews, observations, and physical artifacts. No single source has an advantage over all others; therefore, a good case study should use as many sources of evidence as possible. The documentation and archival sources that were available for this case study included the pleadings, expert reports, California Legislative Reports, Regents meeting transcripts, news articles and College Board data. Data obtained from the College Board on the schools named in the *Daniel* and *Williams* cases is utilized to describe the unequal distribution of AP courses in California — both before and after passage of Proposition 209. Admission policies were obtained on-line and via telephone interviews to provide a picture of how college preparatory classes impact access to higher education. In addition to the documentation and archival records, this case study includes twenty-four qualitative interviews I conducted with the attorneys and experts involved in the *Castañeda*, *Daniel*, and *Williams* cases.[23]

II. THE ROLE OF AP COURSEWORK IN COLLEGE ADMISSIONS

In *Castañeda v. Regents of the University of California,* the NAACP Legal Defense Fund and other nonprofit legal organiza-

22. *See, e.g.*, Anna-Maria Marshall, *Closing the Gaps: Plaintiffs in Pivotal Sexual Harassment Cases*, 23 LAW & SOC. INQUIRY 761 (1998); MICHAEL W. MCCANN, RIGHTS AT WORK: PAY EQUITY REFORM AND THE POLITICS OF LEGAL MOBILIZATION (1994); Michael Paris, *Legal Mobilization and the Politics of Reform: Lessons from School Finance Litigation in Kentucky, 1984-1995*, 26 LAW & SOC. INQUIRY 631 (2001).

23. In one case, *Daniel v. California*, I also interviewed lobbyists, state legislators and their staff members. To ameliorate unequal access to college preparatory classes, attorneys, advocacy groups, and social science researchers worked with state legislators to pass legislation providing funding for AP classes in California.

tions represented students who were denied admission to U.C. Berkeley.[24] The *Castañeda* case claimed U.C. Berkeley was violating the Equal Protection Clause.[25] The complaint also alleged that U.C. Berkeley's undergraduate admissions policy had a disparate impact on underrepresented students of color in violation of Title VI of the Civil Rights Act of 1964.[26]

The African-American, Latino and Filipino American applicants to U.C. Berkeley alleged that the University's admission procedures unfairly disadvantaged applicants of color in violation of their federal civil rights by not taking into account the full range of indicators of academic "merit."[27] This case challenged so called neutral definitions of academic merit by directly confronting the use of AP courses in the University of California admission process.[28]

Plaintiffs in *Castañeda* alleged that the University of California admission policy, adopted after Proposition 209, discriminated on the basis of race. In 1998, after the Regents adopted a policy that the race of applicants would no longer be considered as part of the admission process, the number of applications from underrepresented students of color increased, but the number of non-Asian students of color admitted decreased by 55 percent.[29] Central to the Legal Defense Fund's argument was the University's policy of admitting approximately half of its first-year class based on standardized test scores and "uncapped" grade point

24. Castañeda v. Regents of the University of California, No. C99-0525 (N.D. Cal. filed Feb. 2, 1999) (consent decree approved June 9, 2003).

25. *Id.*

26. In Alexander v. Sandoval, 532 U.S. 275 (2001), decided after the complaint was filed in *Castañeda*, the U.S. Supreme Court determined that there is not a private right of action under Title VI to bring a disparate impact claim. The Court of Appeals for the Ninth Circuit ruled that the disparate impact regulations did not create an individual right that could be enforced through a 42 U.S.C. § 1983 action. Save Our Valley v. Sound Transit, 335 F.3d 932 (9th Cir. 2003). In California and other states governed by the Ninth Circuit, disparate impact claims under Title VI, like those raised in *Castañeda,* would be dismissed for lack of a private right of action. There is, however, a private right of action to file a claim of disparate impact discrimination pursuant to California state law. *See* Cal. Gov. Code § 11135. In Greater Los Angeles Council on Deafness, Inc. v. Zolin, 812 F.2d 1103 (9th Cir. 1987), the Court of Appeals for the Ninth Circuit ruled that there is a private right of action under § 11135. In states that are not within the jurisdiction of the Court of Appeals for the Ninth Circuit, it may still be possible to utilize a 42 U.S.C. § 1983 action. For a discussion of how to file a disparate impact claim utilizing 42 U.S.C. § 1983, *see* Denise C. Morgan, *The New School Finance Litigation: Acknowledging that Race Discrimination in Public Education is More Than Just a Tort,* 96 Nw. U. L. REV. 99 (2001); Kevin G. Welner, *Tracking in an Era of Standards: Low-Expectation Classes Meet High-Expectation Laws*, 28 HASTINGS CONST. L.Q. 699 (2001).

27. *Castañeda* Complaint, *supra* note 9, at 1.

28. *Id.*

29. *Id.* at 5. *See also* AMERICAN COUNCIL ON EDUCATION, MAKING THE CASE FOR AFFIRMATIVE ACTION IN HIGHER EDUCATION 4 (1999).

averages (GPA) that weight AP classes more heavily than non college preparatory classes.

The *Castañeda* case challenged the biases built into the academic criteria in U.C. Berkeley's undergraduate admission process. An applicant's academic score was based on weighted and un-weighted GPAs, standardized test scores, strength of curriculum, and class rank. Weighted GPAs gave an automatic 1-point increase for each AP class taken.[30] According to the *Castañeda* plaintiffs, this negatively impacted 40 to 50 percent of the high school students in California who attended schools with three or fewer AP classes and are thus denied the opportunity of obtaining a more competitive GPA. Counsel for the *Castañeda* plaintiffs asked Walter Allen, a Sociologist at the University of California, Los Angeles (UCLA), to conduct research on whether there was a discriminatory impact from the use of AP courses in college admissions. He assembled a team of professors and graduate students from a variety of social science disciplines to conduct the research. Utilizing the team's research, plaintiffs were able to introduce evidence of inequality of AP coursework opportunity in California public schools. The team used an "Opportunity Index" comparing the number of students enrolled in AP courses in a particular school to that school's total enrollment. The analysis calculated the AP Opportunity Index for each public school in California by dividing the number of students enrolled in AP classes by the total number of students enrolled in the school and multiplying the result by 100.[31] The Opportunity Index is thus the number of AP opportunities available per 100 students at a given school.[32]

According to the Opportunity Index analysis, white students had 32 percent greater AP opportunity than Latino students, 30 percent greater than African American students, and 15 percent greater opportunity than Filipino students.[33] In addition, the AP Opportunity Index increased as the concentration of white students became larger and decreased in schools with higher concentrations of African-American, Filipino, or Latino students.[34]

In addition to evidence that underrepresented students of color had lower AP opportunities, the plaintiffs also provided evidence of bias in standardized test scores based on socioeconomic

30. For example, a "B" for an AP class was calculated as 4.0, and an "A" was calculated as 5.0, whereas a "B" in a non-AP course is calculated at 3.0 and an "A" as 4.0. Thus a "B" in an AP course is presumed and calculated as equivalent to an "A" in a non-AP course. This automatic 1-point increase makes it possible for students to have a 4.3 GPA on a scale of 1-4.

31. *Castañeda* Complaint, *supra* note 9, at 5.

32. *Id.*

33. *Id.*

34. *Id.* at 6.

status, race and gender.[35] They argued that stereotype threat[36] negatively impacts standardized test scores of under-represented students of color. In addition, the plaintiffs argued that criterion favoring quality of high school and rigor of high school curriculum favored students in the highest socioeconomic statuses.[37] Finally, the plaintiffs noted that tracking based on race and ethnicity makes it more difficult for students of color to take the most rigorous classes, even when they are offered at their high school.[38]

The *Castañeda* case settled in June 2003; as part of the settlement, the University of California agreed to provide plaintiffs' counsel with data regarding admission outcomes. According to the attorneys and experts, at the heart of the AP debate is the need to redefine academic merit in higher education. All of the attorneys interviewed recognized that not all students have access to a rigorous high school curriculum and that there are other indicators of merit that exist beyond standardized test scores and AP credit.

To form a picture of how public four-year institutions are considering AP course work and examination results in California, I reviewed the 2006 admission policies at U.C. Berkeley, UCLA, five California State University campuses, the University of Washington, and the University of Michigan to gain insight into how the availability of AP classes impact access to higher education. I chose U.C. Berkeley and UCLA because both campuses are in the top five in the nation of institutions receiving AP test scores from applicants. I also investigated polices at other University of California institutions and the California State University system. Washington State's Proposition I-200[39] outlawing affirmative action has language identical to California's Proposition 209. Thus, I also reviewed the University of Washington's admission procedures. I compared these admission practices with

35. *Id.*

36. For an excellent discussion of the concept of stereotype threat, see Claude Steele, *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 AM. PSYCHOLOGIST 613 (1997).

37. *Castañeda* Complaint, *supra* note 9, at 7.

38. *Id.* at 8. The *Castañeda* research reports have generated a number of published reports and articles; for example, "Knocking at Freedoms Door: Race, Equity, and Affirmative Action in U.S. Higher Education" an edition of *The Journal of Negro Education* guest edited by Grace Carroll and Walter R. Allen has several articles by members of the research team disseminating the results of the *Castañeda* research. *See, e.g.*, Mitchell Chang, *The Relationship of High School Characteristics to the Selection of Undergraduate Students for Admission to the University of California-Berkeley*, 69 THE J. NEGRO EDUC. 49 (2000); Daniel Solorzano, Miguel Ceja & Tara Yosso, *Critical Race Theory, Racial Microaggressions, and Campus Racial Climate: The Experiences of African American College Students*, 69 THE J. NEGRO EDUC. 60 (2000).

39. *See* WASH. REV. CODE § 49.60.400(1).

the University of Michigan, an institution that was the subject of the U.S. Supreme Court's opinion upholding race-based affirmative action policies designed to admit a diverse student body.[40] In addition, most recently, Michigan was the site of intense political debate regarding a November 2006 ballot initiative that ultimately passed and precludes race-conscious admission policies.[41]

U.C. BERKELEY: According to the Admissions Office, AP courses are considered to be more rigorous and challenging than regular college preparatory courses. Students who enroll in AP courses (when available) and perform well in them tend to be regarded as more competitive applicants. AP exam scores of 3 or better are favorable and add to the strength of the admissions application; forgoing the AP tests or scoring below 3 on the tests is regarded as neutral. An applicant's GPA is weighted and is uncapped; that is, there's no limit on the number of AP or other college level classes that can be counted toward calculation of a student's high school GPA.[42] The use of weighted GPA's continues to be controversial and is under review.

Although U.C. Berkeley continues to weight AP classes, subsequent to the settlement in *Castañeda*, U.C. Berkeley instituted a new "unitary" admission policy.[43] No longer are half of the students admitted based on academic factors and the other half given a full file review. U.C. Berkeley now uses a holistic approach where the entire file of the applicant is read and the context of the applicant's school is taken into account. For example, if an applicant attends a high school with three AP classes, she is compared to other applicants in her school — not with an applicant from another high school with 19 AP opportunities. UCLA adopted U.C. Berkeley's unitary policy in large part to rectify the drastic reduction in African American and Latino un-

40. Grutter v. Bollinger, 539 U.S. 306 (2003) (upholding the University of Michigan Law School's race-conscious policy); Gratz v. Bollinger, 539 U.S. 244 (2003) (affirming that diversity is a compelling interest in college admissions but ruling undergraduate admission policy was not narrowly tailored).

41. *See* MICH. CONST., art. I, § 26(2). Proposition 2, the "Michigan Civil Rights Initiative," has similar language to Proposition 209 and, like the California initiative, was introduced by Ward Connerly.

42. U.C. Berkeley Admissions Website, http://ls-advise.berkeley.edu/faq/ap.html (last visited June 16, 2008). In Fall of 2007, the median weighted GPA was 4.29. U.C. Berkeley, Office of Student Research, *Fall 2007, Table 6: New From High School Preliminary Applicant GPA, available at* https://osr2.berkeley.edu/Public/STUDENT.DATA/PUBLICATIONS/UG/ugf07.html#table%2012.

43. U.C. BERKELEY PREPARATORY REVIEW REPORT PREPARED BY THE INSTITUTIONAL CAPACITY WORKING GROUP JULY 2002, *available at* http://www.ucop.edu/acadadv/berkeley-response/wasc.pdf. For a discussion of the unitary process, *see* Alan E. Schoenfeld, *Challenging the Bounds of Education Litigation:* Castañeda v. Regents *and* Daniel v. California, 10 MICH. J. RACE & L. 195, 213-14 (2004).

dergraduates admitted to the University since the passage of Proposition 209.[44]

UCLA: The admission process at UCLA provides a review of an applicant's academic record, personal achievements and life challenges. Although no specific weights are assigned in the selection model, an emphasis is placed on academic achievement. A primary emphasis in academic review is placed on the GPA in college preparatory courses,[45] and the GPA is weighted to give additional points for AP and other college preparatory course work.[46] Similar to U.C. Berkeley, context is taken into account: "All applicants are evaluated by school, allowing for differences in opportunities and, therefore, not penalizing students who attend schools with fewer honors and advanced courses."[47]

CALIFORNIA STATE UNIVERSITY: Interviews were conducted with admission staff at five California State University campuses.[48] Although the admissions policies with regards to AP classes are slightly different from campus to campus, overall GPAs are weighted, but only those AP courses taken in the 11th and 12th grades get additional points. Students with high entering GPAs often get privileges for being designated as honor students and are eligible to apply for various honors/distinguished scholar programs. Unlike U.C. Berkeley and UCLA, however, the California State University campuses do not appear to look at the curricula of an applicant's high school as to determine whether the applicant's high school offered enough opportunities to take AP and/or honors courses.[49]

All of the U.C. campuses and California State University campuses provide college credit to students who obtain a score of 3 or better on an AP examination. Thus, students who attend schools with high numbers of AP courses have the potential to graduate from college early. The average freshman admitted to

44. Rob Capriccioso, *UCLA Revamps Admissions*, INSIDE HIGHER ED, Sept. 8, 2006, *available at* http://www.insidehighered.com/news/2006/09/08/ucla.

45. Required courses, such as Mathematics and English, are used to calculate the GPA. Electives, such as Physical Education, are not utilized.

46. UCLA Admissions Website, http://www.admissions.ucla.edu/Prospect/APCredit.htm (last visited June 16, 2008). The average weighted GPA in the 2007 freshman class was 4.29 and the average number of college level course work was 19 classes. Profile of Admitted Freshman: Fall 2007, Academic Statistics, *available at*: http://www.admissions.ucla.edu/prospect/Adm_fr/Frosh_Prof07.htm.

47. *Id.*

48. The five California State University campuses were: California State University, Fullerton; California State University, Long Beach; California State University, Los Angeles; California State University, Sacramento; and California State University, San Francisco.

49. Interview with Admission Officer (name of subject omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), California State University, Los Angeles, CA, (Sept. 12, 2006).

UCLA in 2006, for example, had taken 19 AP classes.[50] Assuming the student has obtained a passing score on the AP examination for each class, she or he will enter the U.C. system as a sophomore. Thus, students who have access to AP courses and pass the examination are able to graduate in less time and pay less for tuition, than students who go to high schools with fewer AP course opportunities.[51]

UNIVERSITY OF WASHINGTON: The University "encourages and applauds students" who have taken AP coursework as part of their high school curriculum.[52] Although the University of Washington recognizes that AP classes are "challenging and demanding" and "provide excellent preparation for university study," it does *not* weigh students' GPA.[53] Each application receives individualized consideration. Whether the applicant's high school offered AP classes is taken into account as well. Applicants who receive a score of 3 on the AP examination (several departments require a score of 4 or better) obtain college credit for the AP subject area.

UNIVERSITY OF MICHIGAN: A student's curriculum plays a large role in the application process. The University of Michigan encourages students to take AP classes if they are offered at his or her high school. No extra (GPA) weight is given to AP courses; however, the difficulty of a student's curriculum is taken into consideration within the admission's process.[54] Similar to the University of Washington, some departments provide college credit for a score of 3 or better on the AP examination; other departments require at least a score of 4 to obtain credit. College credit for "passing" an AP examination was granted to over 3,000 out of Michigan's 5,000 incoming freshman in 2006.[55] Thus, over half of the freshman class was exempt from taking one or more introductory courses providing the opportunity for early graduation and tuition savings.

Advanced Placement classes continue to be valued in the admission process by four-year institutions across the nation. As

50. UCLA Admissions Website, Profile of Admitted Freshman: Fall 2007, High School Coursework, *available at* http://www.admissions.ucla.edu/prospect/Adm_fr/Frosh_Prof07.htm.

51. For a detailed discussion of the economic and educational benefits of access to Advanced Placement coursework, *see* Karen Miksch, *Unequal Access to College Preparatory Classes: A Critical Civil Rights Issue*, *in* BROWN V. BOARD OF EDUCATION: ITS IMPACT ON PUBLIC EDUCATION 1954-2004, 227, 229-231 (Dara N. Byrne ed., 2005).

52. University of Washington Undergraduate Admissions Website, http://admit.washington.edu/BeforeYouApply/Freshman/AP (last visited June 16, 2008).

53. *Id.*

54. University of Michigan, Office of Undergraduate Admissions Website, http://www.admissions.umich.edu/academics/apguidelines.html (last visited Nov. 1, 2006).

55. *Id.*

Clifford Adelman documented in *Answers in the Toolbox*, college preparatory classes *are* a good predictor of college success, especially for underrepresented students of color.[56] His most recent study, *The Toolbox Revisited*, underscored the importance of a rigorous curriculum.[57] The challenging content of a college preparatory course not only prepares a student for college work, it is a better predictor of a student's persistence in college than GPA or standardized test scores.[58] As Clifford Adelman notes:

> The first year of postsecondary education has to begin in high school, if not by AP then by the growing dual enrollment movement or other, more structured current efforts. If all traditional-age students entered college or community college with a minimum of 6 credits of "real stuff," not fluff, their adaptation in the critical first year will not be short-circuited by either poor placement or credit overload.[59]

Thus, it is not surprising that admission officers look at the rigor of an applicant's coursework. If all high schools offered rigorous curriculum, and all students had equal access, then admission policies based on AP and other college preparatory course-work would appear to be justified. Unfortunately, as several reports have shown, not all high schools offer rigorous coursework.[60] Students who are not enrolled in AP classes or other types of college preparatory coursework are often presumed to be on a non-college track. The fact that students do not have access to a rigorous curriculum, or may have been tracked out of college preparatory coursework at an early age,[61] is often difficult for admission counselors to determine. Thus, the presumption that students enrolled in AP and other types of college preparatory coursework are on a path to college, whereas non-AP enrolled peers are not, persists.

In addition to educational benefits, AP courses also provide students with access to invaluable information about the college application process and financial aid, information that their non-AP enrolled peers are generally less likely to receive. According to *Betraying the College Dream*, AP and honors students receive

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56. CLIFFORD ADELMAN, U.S. DEPARTMENT OF EDUCATION, ANSWERS IN THE TOOLBOX: ACADEMIC INTENSITY, ATTENDANCE PATTERNS, AND BACHELOR'S DEGREE ATTAINMENT (1999).

57. CLIFFORD ADELMAN, U.S. DEPARTMENT OF EDUCATION, THE TOOLBOX REVISITED: PATHS TO DEGREE COMPLETION FOR HIGH SCHOOL THROUGH COLLEGE (2006), *available at* http://www.ed.gov/rschstat/research/pubs/toolboxrevisit/index.html.

58. *Id.* at 46.

59. *Id.* at 108 (citing KATHERINE L. HUGHES ET AL., U.S. DEPARTMENT OF EDUCATION, PATHWAYS TO COLLEGE ACCESS AND SUCCESS (2005)).

60. *See* ADELMAN, *supra* notes 56 and 57; COLLEGE BOARD, *supra* note 21; NATIONAL RESEARCH COUNCIL, *infra* note 102.

61. For a discussion of tracking, see *infra* section III.

better information than their peers from school counselors, university representatives, and AP teachers, who are often more knowledgeable about college-level standards than non-AP instructors.[62] In addition, AP teachers have been found to be better teachers than those who do not teach AP classes.[63] That is, AP teachers are better prepared academically, more enthusiastic about teaching, and have higher expectations for their students.[64] Students who are in the same schools, but not in AP classes, rarely get the same attention from university recruiters or college counselors. First-generation college students (including many low-income African American, Latino, and immigrant students) often do not receive information from their parents about college. Outreach from a college or university is essential, yet often students without access to college preparatory courses do not receive this invaluable information.

Thus, the increasingly selective nature of state flagship institutions means that not only do students lose out on free college credits, but students who lack access to AP courses are not admitted in the first place. The problem, of course, lies with inequitable access to rigorous university preparation and AP course work.

III. UNEQUAL ACCESS TO AP IN HIGH SCHOOL

After the *Castañeda* case was filed in 1999 challenging U.C. Berkeley's admission policy, a second case was filed in California challenging the lack of AP classes directly. In *Daniel v. California,* the American Civil Liberties Union (ACLU) represented a group of high school students residing in Los Angeles County. The complaint alleged that the state of California was denying students equal and adequate access to AP courses.[65] The complaint asserted that low-income African-American and Latino students in particular, were disproportionately disadvantaged and raised a state equal protection cause of action due to unequal allocation of AP courses in California.[66]

The ACLU attorneys responsible for filing the *Daniel* case, Rocio Cordoba and Mark Rosenbaum, met with Professor Jean-

62. ANDREA VENEZIA, MICHAEL W. KIRST & ANTHONY L. ANTONIO, STANFORD UNIVERSITY BRIDGE PROJECT, BETRAYING THE COLLEGE DREAM: HOW DISCONNECTED K-12 AND POSTSECONDARY EDUCATION SYSTEMS UNDERMINE STUDENT ASPIRATIONS 40 (2003), *available at* http://www.stanford.edu/group/bridgeproject/betrayingthecollegedream.pdf.

63. *See* Susan P. Santoli, *Is There an Advanced Placement Advantage?* 30 AM. SECONDARY EDUC. 23, 25 (2002).

64. *Id.*

65. Daniel v. California, No. BC214156 (L.A. Super. Ct. July 27, 1999) (hereinafter *Daniel* Complaint).

66. *Id.* at 9.

nie Oakes at UCLA and asked her to assemble a research team to study AP access in California. The research team, using data and analysis provided by the Tomas Rivera Policy Institute, proved that distribution of AP courses is extremely skewed in California. The research demonstrated a link between race, place (geographic area) and socioeconomic class and documented the low number of AP courses in low-income, predominantly Latino and African-American public high schools.[67] According to the plaintiffs' attorneys, race and class combine in California when it comes to who has access to AP classes. The attorneys argued that this disparity violated the students' rights because AP classes would provide the academic benefits of a rigorous high school curriculum, a level of rigor lacking in their schools.[68] They further argued that AP classes had become a *de facto* admission requirement at the University of California, and thus were required as part of an equal education. The lack of equitable access to AP classes, according to the *Daniel* complaint, violated the fundamental right to education in the California Constitution.[69] The complaint also alleged a state equal protection violation due to discrimination against a suspect class, that is, African-American and Latino students denied equal access to AP classes.[70] The case did not go to trial and after legislation was passed to attempt to equalize access to AP classes, the case was dismissed in 2005.

The California legislature introduced legislation promoting increased access to AP classes. The resulting AP Challenge Grants incorporated many of the *Daniel* experts' recommendations. In 2003, approximately 80 percent of public high schools in California offered at least one AP class. Expansion in access to AP courses in California was largely due to the AP Challenge Grants. Unfortunately, the Challenge Grant Program ended after only three years and no grant money is currently available to schools. *Daniel* recognized a link between race, place and class[71] and documented the low number of AP courses in low-income, predominantly Latino and African-American public high schools. Unfortunately, this disparity continues in California and nationally. Unequal distribution of AP classes could be chal-

67. JEANNIE OAKES ET AL., REMEDYING UNEQUAL OPPORTUNITIES FOR SUCCESSFUL PARTICIPATION IN ADVANCED PLACEMENT COURSES IN CALIFORNIA HIGH SCHOOLS: A PROPOSED ACTION PLAN (Jan.10, 2000) (one file with the author). This expert report was submitted on behalf of the plaintiffs and the American Civil Liberties Union in *Daniel v. California* (2001).

68. *Daniel* Complaint, *supra* note 65, at 5-9.

69. *Id.* at 2.

70. *Id.* at 9.

71. For a discussion of the need for education litigation that connects race, place and class, *see* Denise Morgan, *The Less Polite Questions: Race, Place, Poverty and Public Education*, 1998 N.Y.U. ANN. SURV. AM. L. 267 (1998).

lenged in other states as well, especially if the state constitution, like California, contains a provision recognizing a fundamental right to education.

The most recent of the three cases, *Williams v. California*, systematically documented inequality in California public schools. As the *Williams* complaint eloquently noted:

> State law requires students to attend school. Yet all too many California school children must go to schools that shock the conscience. Those schools lack the bare essentials required of a free and common school education that the majority of students throughout the State enjoy: trained teachers, necessary educational supplies, classrooms, even seats in classrooms, and facilities that meet basic health and safety standards. Students must therefore attempt to learn without books and sometimes without any teachers, and in schools that lack functioning heating or air conditioning systems, that lack sufficient numbers of functioning toilets, and that are infested with vermin, including rats, mice, and cockroaches.[72]

The *Williams* case alleged that the State of California was responsible for these deplorable conditions and was thus violating the students' rights to equal protection of the laws and due process.[73] Almost every civil rights organization in California was involved in bringing the case.[74]

Going well beyond allegations regarding lack of access to a rigorous curriculum, the *Williams* case illustrated the deplorable conditions that many students must endure as they attempt to obtain an education. Documenting the number of uncertified teachers, squalid conditions, and lack of textbooks, among other problems, the *Williams* case demonstrated students' lack of access to the opportunity to learn.[75] Although the *Daniel* case and the resulting Challenge Grants had already increased awareness regarding the need for all schools in California to offer AP classes, the *Williams* attorneys and experts dug deeper to see whether AP classes were adequately staffed and supported.

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72. *Williams* Complaint, *supra* note 13, at 6.

73. *Id.*

74. Attorneys at the following organizations represented the plaintiffs: The American Civil Liberties Union (Southern California, Northern California, and San Diego offices); Public Advocates, Inc.; Center for Law in the Public Interest; Lawyers Committee for Civil Rights of the San Francisco Bay Area; the Asian Pacific American Legal Center; and the Mexican American Legal Defense and Educational Fund (MALDEF). In addition, several attorneys at private law firms and law schools worked on the case *pro bono*.

75. For an interesting discussion of the key phases in education equity policy, *see* Rachel F. Moran, *Brown's Legacy: The Evolution of Educational Equity*, 66 U. PITT. L. REV. 155, 174-75 (2004) (citing Williams v. California, No. 312236 (Cal. Super. Ct. S.F. County filed May 17, 2000) as an example of the current Opportunity to Learn policy).

Many were AP classes in name only.[76] In some cases, classes were offered and students were enrolled, but they were forced to endure a series of substitutes rather than qualified teachers.[77] In some of the classrooms, no teacher was provided and students were left on their own with no teacher at all.[78] Even in cases where teachers were assigned to teach AP courses, they often lacked any coursework in the subject matter.[79] Thus, although AP classes were offered, students continued to lack meaningful access to college preparatory work.

The attorneys, working with researchers at UCLA, provided a number of descriptive charts in the *Daniel* case documenting unequal access to college preparatory courses in California.[80] I decided to update the charts and statistics used in the *Daniel* complaint with the most recent available data on the number of available AP classes. I wanted to describe AP access in California both prior to Proposition 209 and the subsequent lawsuits, and the current status of AP opportunities in California.

CHART 1: UPDATE OF *DANIEL* COMPLAINT WITH 2005 – 2006 DATA

Name of High School	No. AP Subjects in *Daniel* Complaint (DC)[81] v. 2005[82]	AP Science & Math classes offered	Total No. AP Classes Offered	Percent African American & Latino students
Inglewood HS	DC: 4 2005: 7	0 8	4 19	97.4
Arvin HS	DC: 2 2005: 3	1 4[83]	2 6	92.8
Beverly Hills HS	DC: 14 2005: 18	5 14	32 40	8.8
Arcadia HS	DC: 18 2005: 19	6 42	45 83	8.4

The original *Daniel* complaint documented the low numbers of AP courses offered in predominantly African-American and Latino public high schools. This was contrasted with the high

76. *Williams* Complaint, *supra* note 13, at 8-11.
77. *Id.* at 27, 30, 31, 47, 65.
78. *Id.* at 21.
79. *Id.* at 31.
80. *See Daniel* Complaint, *supra* note 65. The *Daniel* Complaint includes four charts that describe the availability of Advanced Placement classes in low-income, high African American and Latino districts versus high-income, predominately white ethnic public high schools.
81. *Id.* at 5.
82. School Accountability Report Card, http://www.cde.ca.gov/ta/ac/sa/ (hereinafter SARC); California Department of Education Data Quest, http://data1.cde.ca.gov/dataquest/ (data for the 2005-2006 school year) (hereinafter Data Quest).
83. Arvin High School offered zero AP Mathematics classes and four AP Science classes.

number of AP classes offered in predominately white public high schools. As Chart 1 illustrates, although there have been gains in the number of courses offered at Inglewood and Arvin High Schools (two schools with predominantly African-American and Latino students), they have not "kept up" with their higher income peers at Arcadia and Beverly Hills. This is troubling because the academic rigor of a student's high school curriculum is strongly associated with postsecondary GPA and rates of persistence in college.[84] The study *Answers in the Toolbox*,[85] for example, proves that African-American and Latino students' success in AP classes is a better predictor of college success than high school grade point average, class rank, or SAT scores. Parents' level of education continues to be a significant factor in retention and graduation, but first-generation college students who take college preparatory classes are more likely to stay in college and graduate than those without access to a rigorous curriculum.[86] Much of the research agrees: students are more likely to graduate from college if they have taken rigorous classes in high school.[87]

According to several studies, math is the cornerstone of a rigorous high school curriculum and students who take AP Calculus are more likely to go to a four-year institution.[88] According to *Answers in the Toolbox*, "of all pre-college curricula, the highest level of mathematics on studies in secondary schools has the strongest continuing influence on bachelor degree completion."[89]

The *Daniel* case documented that in low-income, predominantly African-American and Latino public high schools, AP mathematics and science classes were much less likely to be offered than in upper income high schools. Again, as Chart 2 illustrates, the low-income, predominantly African-American and Latino schools analyzed in the *Daniel* complaint have made gains in overall number of AP classes offered and most are providing more opportunities for AP science and mathematic course work than they were in 1997.[90]

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84. U.S. DEPT. OF EDUC., BRIDGING THE GAP: ACADEMIC PREPARATION AND POSTSECONDARY SUCCESS OF FIRST-GENERATION COLLEGE STUDENTS 9 (2001).

85. *See* ADELMAN, *supra* note 56.

86. *Id.*

87. *See, e.g.*, ADELMAN, *supra* notes 56 & 57; INST. FOR HIGHER EDUC. POL'Y, GETTING THROUGH COLLEGE: VOICES OF LOW-INCOME AND MINORITY STUDENTS IN NEW ENGLAND (2001); Santoli, *supra* note 63, at 29-31.

88. SUSAN P. CHOY, AM. COUNCIL ON EDUC., ACCESS & PERSISTENCE: FINDINGS FROM 10 YEARS OF LONGITUDINAL RESEARCH ON STUDENTS (2002); VENEZIA ET. AL., *supra* note 62.

89. ADELMAN, *supra* note 56, at viii.

90. I use 1997 as a baseline because it is the last year affirmative action was used in University of California undergraduate admissions and because it is the first year comprehensive AP data is available.

CHART 2: LOW NUMBER OF AP COURSES IN LOW-INCOME, PREDOMINANTLY LATINO AND AFRICAN-AMERICAN PUBLIC HIGH SCHOOLS 1997 - 2005

High School (District)	No. of AP Classes Offered 1997[91]	AP Science?	No. of AP Classes Offered 2005	AP Science?	Opportunity Index[92]
Inglewood HS (Inglewood USD)	4	No	19	Yes	1997: 4.48 2005: 27.8
Morningside HS (Inglewood USD)	5	No	10	No	1997: 10.13 2005: 18.95
Locke HS (Los Angeles USD)	5	Yes	17	Yes	1997: 7.01 2005: 10.37
Dorsey HS (Los Angeles USD)	7	Yes	12	Yes	1997: 8.49 2005: 13.91
Compton HS (Compton USD)	5	No	10	No	1997: 6.88 2005: 14.40
Hiram Johnson HS (Sacramento. USD)	5	Yes	6	Yes	1997: 4.8 2005: 4.51
Arvin HS (Kern USD)	1	No	6	No	1997: 1.31 2005: 6.26
Azusa HS (Azusa USD)	0	No	10	Yes	1997: 0 2005:16.63
Duarte HS (Duarte USD)	5	Yes	11	Yes	1997: 7.87 2005: 25.10

Chart 2 also provides the AP Opportunity Index for each high school. The *Castañeda* plaintiffs calculated the Opportunity Index for each high school in California and determined that upper income students and white ethnic students went to high schools with a much higher opportunity to take AP classes than their African-American and Latino peers. As Chart 2 illustrates, there have been gains made at all but one of the low-income, predominantly African-American and Latino, high schools.

91. SARC, *supra* note 82.

92. The AP Opportunity Index is calculated by dividing the number of students enrolled in AP classes by the total number of students enrolled in the high school. This figure is multiplied by 100 to provide the number of AP opportunities per 100 students in the high school. See Appendix A for detailed information on each of these high schools.

CHART 3: HIGH NUMBER OF AP COURSES OFFERED IN WEALTHY, PREDOMINANTLY WHITE PUBLIC HIGH SCHOOLS

High School (District)	No. of AP Classes Offered 1997[93]	AP Science?	No. of AP Classes Offered 2005	AP Science?	Opportunity Index 1997 v. 2005
Beverly Hills HS (Beverly Hills USD)	32	Yes	40	Yes	1997: 35.88 2005: 46.14
Arcadia HS (Arcadia USD)	45	Yes	83	Yes	1997: 40.17 2005: 61.27
Henry Gunn HS (Palo Alto USD)	15	Yes	33	Yes	1997: 30.97 2005: 45.59
University HS (Irvine USD)	43	Yes	47	Yes	1997: 63.73 2005: 72.51
Torrey Pines (San Dieguito USD)	43	Yes	92	Yes	1997: 61.41 2005: 88.66
Corona del Mar (Newport Mesa USD)	18	Yes	29	Yes	1997: 42.00 2005: 57.09
Diamond Bar HS (Walnut Valley USD)	51	Yes	82	Yes	1997: 56.02 2005: 69.64

When we compare the predominantly African-American and Latino low-income schools in Chart 2, to the predominantly white high-income schools in Chart 3, once again we see that the predominantly African-American and Latino high schools are losing ground. Also, note that none of the low-income predominantly African-American and Latino high schools currently have an AP Opportunity Index as high as any of the high income schools had in 1997, let alone in 2005.

I also looked at AP data for each school between 1998 and 2004. In most of the high schools, there was an increasing number of AP classes. This was heartening. Unfortunately, the AP Challenge Grant funding is no longer available to assist schools to provide more AP classes and this trend in increased access to college preparatory classes is thus unlikely to continue.

IV. FUTURE LEGAL AND POLICY ACTION

I began this project to better understand how researchers, students, and attorneys work together to bring about positive social change. In my discussions with the attorneys and researchers, Proposition 209 was always mentioned. Academics spoke about how different their classrooms were after the University of Cali-

93. SARC, *supra* note 82.

fornia stopped using race-conscious admission practices. For example, this Professor summed up the impact of Proposition 209:

> The reason I came here was that this was a high quality institution. I went into the classroom and it was a rainbow. The rainbow has dimmed considerably. Black students are few and far between now. Chicano and Latino students are fewer and further between . . . around the time of [Proposition] 209, you had a 50% drop in the enrollment of black students, and about a 40% drop in Latino students, and the school's population has not recouped yet. I mean there have been quote-on-quote gains, but they have been relative gains. Not to where we were before. That's what I would like to see changed. And that's been my greatest disappointment recently is just to be in a situation where those numbers of students of color, black students, and Latino students, have fallen so precipitously.[94]

Multiple attorneys agreed[95] that the impetus for the *Castañeda* and *Daniel* cases were the devastating impacts of Proposition 209 on university admissions for underrepresented students of color.

Improving conditions within the framework of Proposition 209, while at the same time contesting the underlying presuppositions of the anti-affirmative action initiative, was a recurring theme for attorneys and researchers. Attorneys and researchers grappled with questions like the following: Were the cases in some way supporting the State's interpretation of Proposition 209 because they did not directly challenge its legality? Did these cases make challenges to Proposition 209 obsolete? Ultimately, the researchers and attorneys saw these cases as one strategy to contest Proposition 209. They did so by highlighting the fact that "academic merit" admission factors are not race and class neutral. They viewed challenges to deplorable conditions in many California schools as complimentary to direct legal and policy challenges to Proposition 209.

Scholarship surrounding the three cases tends to agree that a variety of strategies are necessary to contest Proposition 209 and similar initiatives. Charles R. Lawrence III specifically points to *Castañeda* and *Daniel* as exemplary ways to challenge the notion

94. Interview with Expert Witness for Applicants in *Castañeda* (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), Los Angeles, CA. (Aug. 15, 2004).

95. Interview with Attorney representing Applicants in the *Daniel* case (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), Los Angeles, CA. (Jan. 18, 2004); Interview with Attorney representing Applicants in the *Castañeda* case (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), Los Angeles, CA. (Aug. 16, 2004). *See also supra* note 5 and accompanying text.

of meritocracy that undergirds attacks on affirmative action.[96] What the *Williams* and *Daniel* cases underscore is that the "pipeline" metaphor is inapt; the transition to postsecondary education is much more like a sieve. Structural barriers including lack of funding, quality teachers, and rigorous pre-college curriculum disproportionately impact low-income, urban, and increasingly re-segregated, public schools. These structural barriers, coupled with tracking and high stakes testing increasingly close the doors to higher education for African-American, Native American, and Chicano/Latino students.[97]

The researchers and attorneys I spoke with were passionate in their support of affirmative action and the need for more direct challenges to Proposition 209. In addition, many of the researchers wanted to utilize AP cases to challenge school-within-school tracking. The most serious critiques of college preparatory classes concern ability grouping, tracking based on race, class, and gender, and inequitable access. The College Board frowns on the practice of using standardized tests for determining access to AP classes, yet many schools still employ that practice.[98] According to the social scientists I interviewed, it is an especially problematic form of ability grouping because of the inherent racial and class biases in tests and test scores. Tracking based on race and ethnicity continues to make it more difficult for students of color to take the most rigorous classes when they are offered.[99] The school within a school — where poor African-American, Latino, and immigrant students are placed in low tracks, and upper income white ethnic students are more likely to be tracked into college preparatory classes — is an ongoing problem.[100]

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96. Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928, 973 (2001). *See also* Alison Barnes, *The Conundrum of Segregation's Ending: The Education Choices*, 89 MARQ. L. REV. 33, 45-46 (2005) (citing the *Williams* case as an exemplary example of using litigation as a catalyst to bring about social change).

97. For an excellent discussion of resegregation and structural barriers to higher education, *see* GARY ORFIELD & CHUNGMEI LEE, WHY SEGREGATION MATTERS: POVERTY AND EDUCATIONAL INEQUALITY (Civil Rights Project, Harvard University, 2005) *available at* http://www.civilrightsproject.ucla.edu/research/deseg/deseg05.php. *See also* SAMUEL M. KIPP ET AL., UNEQUAL OPPORTUNITY: DISPARITIES IN COLLEGE ACCESS AMONG THE 50 STATES 9 (2002); SANDRA S. RUPPERT, EDUCATION COMMISSION OF THE STATES (ECS), CLOSING THE COLLEGE PARTICIPATION GAP: A NATIONAL SUMMARY 3-4 (2003).

98. *See* COLLEGE BOARD, *infra* note 101, at 18.

99. JEANNIE OAKES, KEEPING TRACK: HOW SCHOOLS STRUCTURE INEQUALITY (Yale Univ. Press 1985); Kevin G. Welner & Jeannie Oakes, *(Li)Ability Grouping: The New Susceptibility of School Tracking Systems to Legal Challenges*, 66 HARV. EDUC. REV. 451 (1996).

100. Karin Chenoweth, *The College Board Decries Participation Gap*, BLACK ISSUES IN HIGHER EDUC., Sept. 17, 1998, at 24. It should be underscored that ability grouping based on improper use of standardized tests violates civil rights laws, according to the Office of Civil Rights (OCR), as does tracking based on race.

The student groups traditionally underrepresented in AP and other college preparatory classes include African-American, Native American, Native Alaskan, Mexican-American, and Puerto Rican students. Most research reports on inequitable access to AP focus on African- American and Mexican-American students, largely because they provide the greatest sample size. Studies generally concur: African-American and Mexican-American students do not have equitable access to rigorous high school classes.[101]

Even the National Research Council, a highly respected neutral research institution, determined that access to advanced study in high school is uneven, especially in the sciences.[102] The availability of AP and other advanced course-work decreases as the percentage of students of color and low-income students increases. This is especially true in mathematics and science. This is particularly troubling given the importance of rigorous math courses to college access and success.[103] Even in high schools where AP math and science courses are offered, students from underrepresented populations are disproportionately tracked out of college preparatory classes. The education researchers involved in *Daniel*, *Castañeda*, and *Williams* all concur: just providing more AP courses is not the answer. As long as tracking based on race and class continues, low income students and students of color will disproportionately miss out on the education and economic benefits afforded by rigorous secondary course-work, including the opportunity to engage in AP courses. Many of the researchers encouraged the attorneys to raise tracking concerns, and the issue is included in the cases. When asked what policy and legal issues needed to be raised in the future, tracking was still a high priority for the researchers.[104]

In addition to Proposition 209 and tracking, segregation and re-segregation of public schools was a concern shared by all of the people I interviewed. Research on segregation's impact on college access supports the need for continuing legal and policy work in the Proposition 209 context. For example, a 2004 study

101. *See* COLLEGE BOARD, ACCESS TO EXCELLENCE: A REPORT OF THE COMMISSION ON THE FUTURE OF THE ADVANCED PLACEMENT PROGRAM (2001); EDUCATION TRUST, INC., EDUCATION WATCH CALIFORNIA: KEY EDUCATION FACTS AND FIGURES (2004); Daniel G. Solorzano & Armida Ornelas, *A Critical Race Analysis of Advanced Placement Classes: A Case of Educational Inequality*, 1 J. OF LATINOS & EDUC. 215 (2002).

102. COMMITTEE ON PROGRAMS FOR ADVANCED STUDY OF MATHEMATICS AND SCIENCE IN AMERICAN HIGH SCHOOLS, NATIONAL RESEARCH COUNCIL, LEARNING AND UNDERSTANDING: IMPROVING ADVANCED STUDY OF MATHEMATICS AND SCIENCE IN U.S. HIGH SCHOOLS 3 (Jerry P. Gollub et al eds., 2002).

103. *Id.* at 5. *See also* CHOY, *supra* note 88.

104. See Welner, *supra* note 26, for an excellent discussion of how to legally attack tracking.

by the Civil Rights Project determined that access to college is strongly related to residential segregation, even after income and other factors are taken into account.[105] Urban areas, which educate many African-Americans, and the largest amounts of Latinos, have very different access patterns than suburban areas. Students in urban settings are less likely to take the SAT, have lower SAT scores, and apply to fewer colleges than their suburban counterparts.[106] Urban students are also more likely to attend community colleges and less likely to get a college degree than suburban students.[107] According to the study, African-American and Latino students continue to face barriers to post-secondary access, including lack of information, lack of a rigorous high school curriculum, and access to qualified teachers.[108] *Williams* was cited by many of the researchers and attorneys as attacking systemic barriers to access because the case addressed the unspoken yet deplorable conditions in public education.[109] The current lawsuit challenging the disparate impact of high-stakes graduation tests[110] was seen as the next step in the ongoing struggle to provide all students with an opportunity to learn and meaningful access to post-secondary education.

IV. How Can We Work Together?

I began this project from the perspective of a scholar studying how to increase access to higher education for low-income, first generation, and underrepresented students of color. However, my background as a poverty lawyer and civil rights litigator, informed my research. My goal is to bridge the gap between researchers and advocates so that we can more effectively work together to improve students' transition from high school to college. I used my contacts with former legal services attorneys and community activists to begin interviewing attorneys, their clients, and eventually the education experts involved in a number of lawsuits geared toward increasing access to higher education for

105. Joseph B. Berger, Suzanne M. Smith & Stephen P. Coelen, The Civil Rights Project, Harvard Univ., Race and the Metropolitan Origins of Postsecondary Access to Four Year Colleges: The Case of Greater Boston (2004).

106. *Id.* at 20.

107. *Id.* at 2.

108. *Id.* at 19. *See also* Florence A. Hambrick & Frances K. Stage, *College Predisposition at High-minority Enrollment, Low Income Schools,* 27 Rev. Higher Educ. 151 (2004) (finding that financial reasons, lack of access to a rigorous curriculum, and information about four-year colleges are the most common barriers to access).

109. For discussion of potential education finance litigation in California, *see* Christopher R. Lockard, *In the Wake of* Williams v. State*: The Past, Present, and Future of Education Finance Litigation in California,* 87 Hastings L.J. 385 (2005).

110. Valenzuela v. O'Connell, No. CPF-06-506050, 2006 WL (S.F. County Super. Ct. April 14, 2006).

students from underrepresented backgrounds. Utilizing qualitative interview techniques, I asked my subjects to explain how the litigation came about and how they viewed their role in the cases. The open-ended questions about how a researcher viewed her or his role were followed up with additional questions about working with attorneys, and whether the social scientist would be interested in working on another court case. I asked similar questions of the attorneys. In addition to questions about their role, educational background and motivation, I also asked each subject to design an admission policy to discover his or her definition of academic merit.[111] All interviews were conducted after the cases were completed.

From these interviews an overarching theme emerged regarding the need for researchers and attorneys to work together even more to bring about reforms in higher education.[112] Everyone mentioned the need to "learn how to talk to each other." Attorneys feel they speak a different language from researchers, and the researchers felt that a translator was needed, especially early on in the case. All of the social scientists I interviewed agree that attorneys and researchers need to learn how to communicate across disciplines. Several of the attorneys explained that, initially, it was frustrating because researchers do not answer questions with a simple "yes" or "no," but rather, "it depends." Conversely, researchers worry that the attorneys misunderstand social science data. Often, the social scientists were frustrated that the attorneys were asking questions and wanting simple answers. The researchers soon found that their role was to explain how research happens.

Attorneys realized their role was to explain equal protection and disparate impact analysis to the social scientists. That way, the researchers would know what types of questions the courts would want scientific answers to. The attorneys also needed to be able to explain the social science research to the court. Researchers discovered that their data had to be presented differently when writing for the court than when writing for peers. Often, theoretical underpinnings and methodology, issues that are raised in the beginning of a social science study, were moved towards the end of an expert report or into an appendix. Many also came up with creative ways to explain social science concepts. For example, one professor used the phrase, "the tie goes to the runner" to explain the concept of two competing variables. Many

111. For a more detailed discussion of the *Daniel* and *Castañeda* cases, and the results of the interviews regarding academic merit, see Miksch, *supra* note 51.

112. This same theme was echoed in the interviews I conducted with attorneys and researchers involved in defending the use of race-conscious affirmative action at the University of Michigan.

of the researchers said that having to explain their work to lawyers actually added clarity to their own work, a benefit that remained after working on the cases.

Several of the researchers I interviewed had been involved in prior and subsequent cases. In prior cases, the researchers worked alone and felt "attacked" when they were deposed or cross-examined on the witness stand. In addition, several had been asked in the past to testify regarding research that was not specifically tied to a case and felt this weakened the impact of the research. During the *Castañeda, Daniel*, and *Williams* cases, the teams of social scientists worked together. This "collaborative approach" made the researchers feel much more confident in the quality of the science. Several have put together research teams for subsequent cases.

All of the attorneys and researchers I interviewed discussed how valuable it was to meet together and discuss the research and cases. The attorneys and researchers were clear that working collaboratively did not mean that the lawyers were telling the social scientists what to do. As one attorney eloquently noted:

> Now I don't think anybody who does research wants a lawyer or an advocate telling them, "come up with this conclusion." I don't think that's the right way to go under any circumstance because it can inject bias into the system, which isn't good in terms of how it appears to the court or to the opponents.[113]

In addition to strengthening their research, being involved in the cases changed the way the social scientists viewed their roles as academics. Similarly, attorneys discussed a new approach to working with academics as collaborators, rather than on an ad hoc basis.

I asked each interview subject to define his or her role as a researcher. Several of the social scientists I interviewed said they saw their role as an "action researcher." According to the literature, action research "seeks to bring together action and reflection, theory and practice, in participation with others, in the pursuit of practical solutions to issues of pressing concern to people and their communities."[114] Even most of those who did not use the term "action research" nevertheless articulated the goal of bringing about positive social change. For example, one professor said: "You want what you do to make a difference and you're not just doing it for tenure or something like that. I think

113. Interview with Attorney representing Applicants in the *Daniel* case (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), San Diego, CA, (Apr. 16, 2004).

114. HANDBOOK OF ACTION RESEARCH: PARTICIPATIVE INQUIRY AND PRACTICE (Peter Reason & Hilary Bradbury eds., 2001).

that at the heart of it is to be able to do something that's socially relevant with the skills and training that we have."[115]

Interview subjects discussed an evolving understanding of their role as social scientists. Being involved in the case changed the way most of the researchers viewed later research projects and their roles as academics. Many said they did not originally see themselves as "a policy person" but, after being involved in the case, expanded their ideas of what role a social science researcher should play in society. One professor summed up many of the interviewees comments:

> Having gone through the case, I do see myself as a policy person in some ways now, because it is very political. And, people make decisions *not* on what makes the best sense for education, but rather they make policy decisions on very limited information. And so I see my role as a researcher as continually putting the information out there [to inform education policy].[116]

Being involved in the cases caused these scholars to view policy work as an important part of their academic work. Most said they would be willing to be involved in future litigation, but of course, only if the case involved an area they were already researching. The attorneys and researchers recognized a tension between litigation and science. Many of the researchers were careful to note that they conducted their research for educational purposes, not for the lawsuits. When discussing their role, many of the social scientists echoed the following professor:

> My role is really doing the best work that I can do. [Having research used in cases] is hard because I think a lot of people have taken that to mean that the research was biased or skewed in a particular way. But, the researchers' role is to do the best quality research that the current science allows.[117]

All of the social scientists and attorneys that I interviewed were very generous with their time and expertise. One goal of this study is to encourage education law attorneys and researchers to collaborate more often. As my interviewees reiterated, we need to work together if we want to help students.

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115. Interview with Expert Witness for the Applicants in the *Castañeda* case (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), San Diego, CA. (Apr. 14, 2004).

116. Interview with Expert Witness for the Applicants in the *Daniel* case, (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), Los Angeles, CA. (Jan. 20, 2004).

117. Interview with Expert Witness for the Applicants in the *Daniel* case, (name of subject and subject's organizational affiliation omitted in compliance with "Access to Higher Education Case Study" IRB Protocol No. 0212S38501), Los Angeles, CA. (Jan. 19, 2004).

Several practical suggestions emerged from the interviews:

1. *Attorneys should publish in venues that reach social scientists*

When research questions are being formed, it is useful for social scientists to know what type of questions will inform legal and policy debates. Often, researchers do not know the types of questions that a court wants answered. Thus, attorneys need to reach out more so that when studies are being designed, legal as well as policy needs are considered.

2. *Consider bringing in experts earlier in case preparation*

Although it is not always possible, if attorneys and social scientists can meet early in the case preparation process, it can help inform research. Clearly, in the *Daniel*, *Castañeda*, and *Williams* cases, attorneys and researchers met early (and often). Of course, social scientists cannot answer all of the questions that a court may want answered in a particular case. However, if the attorney informs the social scientist of the types of questions the court will be interested in, the academic may be able to design a short-term study with existing data to answer the question. It is also important to explain timelines to each other. Attorneys are often frustrated with how long it takes for a research project to be completed. Conversely, the social scientists were putting other projects on the back burner and completing projects in half the time than normal.

3. *Consider the team versus single expert approach*

I recognize it is not always feasible to work with more than one social scientist while preparing a case. However, in cases where social science research has the potential to inform the court, encouraging a researcher to put together a team of colleagues and graduate students may help ensure that the research results are credible to the court.

4. *Teach each other the basics of your disciplines*

It is key for advocates to understand social science evidence in order to explain it to the court. Researchers are invaluable in explaining statistical significance, variables, causation, and other matters that are either opaque to outside audiences or, in some cases, misused. It is also important for attorneys to explain to social scientists the legal issues involved in a case. In addition to focusing research questions, it also helps the researchers understand the court as an audience for the research.

V. CONCLUSION

> Plaintiffs are children whose education the State of California cannot afford to ignore or impede. These children have dreams of college and productive careers. These children have hopes to vote and participate in their communities. These children have desires to challenge themselves and to learn. But those dreams and hopes and desires will be forever frustrated if California continues to relegate these children to learning conditions that should shock the conscience of any reasonable person.[118]

To contest Proposition 209, attorneys, students, and social science researchers need to continue to work together. Direct challenges to Proposition 209 are not precluded by litigation challenging the rigor of curriculum and the concomitant university admission policies. As the 2005-2006 data, coupled with the *Williams* expert reports, documents schools in California have a long way to go before low-income underrepresented students of color are given an opportunity to learn and equitable access to higher education. As the complaint in *Williams* eloquently states, "children have dreams of college . . . hopes to vote and participate in their communities . . . desires to challenge themselves and learn."[119] In order to realize these dreams, hopes and desires, multiple legal strategies and policy initiatives are imperative.

118. *Williams* Complaint, *supra* note 13, at 7.
119. *Id.*

APPENDIX A

LOW NUMBER OF AP COURSE OFFERED IN LOW-INCOME, PREDOMINANTLY LATINO AND AFRICAN-AMERICAN PUBLIC HIGH SCHOOLS 1997-2005

INGLEWOOD HIGH SCHOOL

1997-1998: 4 AP classes
4 AP subjects: average class size 24.2;
0 sections AP Math;
0 sections AP Science;
Total students enrolled in AP: 97
Total HS enrollment: 2,161
1997-1998 OPPORTUNITY INDEX: 4.48

1998-1999: 6 AP classes

1999-2000: 10 AP classes

2000-2001: 5 AP classes

2001-2002: 18 AP classes

2002-2003: 5 AP classes

2003-2004: 22 AP classes

2004-2005: 24 AP classes

2005-2006: 19 AP classes
7 AP subjects, average class size 28.5;
1 section AP Math (1 subject);
7 sections AP Science (2 subjects);
Students enrolled in AP: 542
Total HS enrollment: 1,949
2005-2006 OPPORTUNITY INDEX: 27.80

MORNINGSIDE HS

1997-1998: 5 AP classes
4 AP subjects: average class size
0 sections AP Math;
0 sections AP Science;
Total students enrolled in AP: 129
Total HS enrollment: 1,273
1997-1998 OPPORTUNITY INDEX: 10.13

1998-1999: 9 AP classes

1999-2000: 7 AP classes

2000-2001: 11 AP classes

2001-2002: 9 AP classes

2002-2003: 8 AP classes

2003-2004: 14 AP classes

2004-2005: 13 AP classes

2005-2006: 10 AP classes
6 AP subjects; average class size 29.1
2 sections of AP Math (2 subjects);

0 sections of AP Science;
Total AP enrollment: 291
Total HS enrollment: 1,535
2005-2006 OPPORTUNITY INDEX: 18.95

LOCKE HS
1997-1998: 5 AP classes
5 AP subjects: average class size 26.2;
1 section AP Math (1 subject);
1 section AP Science (1 subject);
Total students enrolled in AP: 131
Total HS enrollment: 1,868
1997-1998 OPPORTUNITY INDEX: 7.01
1998-1999: 8 AP classes
1999-2000: 13 AP classes
2000-2001: 18 AP classes
2001-2002: 15 AP classes
2002-2003: 18 AP classes
2003-2004: 18 AP classes
2004-2005: 19 AP classes
2005-2006: 17 AP classes
14 AP subjects; average class size 19.1
2 sections of AP Math (2 subjects);
3 sections of AP Science (3 subjects);
Total AP enrollment: 324
Total HS enrollment: 3,122
2005-2006 OPPORTUNITY INDEX: 10.37

DORSEY HS
1997-1998: 7 AP classes
4 AP subjects: average class size 23.6;
1 section AP Math (1 subject);
4 sections AP Science (2 subjects);
Total students enrolled in AP: 165
Total HS enrollment: 1,942
1997-1998 OPPORTUNITY INDEX: 8.49
1998-1999: 8 AP classes
1999-2000: 14 AP classes
2000-2001: 13 AP classes
2001-2002: 14 AP classes
2002-2003: 11 AP classes
2003-2004: 13 AP classes
2004-2005: 13 AP classes
2005-2006: 12 AP classes
9 AP subjects; average class size 24.2;
1 section of AP Math (1 subject);

1 section of AP Science (1 subject);
Total AP enrollment: 290
Total HS enrollment: 2,084
2005-2006 OPPORTUNITY INDEX: 13.91

COMPTON HS
1997-1998: 5 AP classes
5 AP subjects: average class size
0 sections AP Math;
0 sections AP Science;
Total students enrolled in AP: 152
Total HS enrollment: 2,207
1997-1998 OPPORTUNITY INDEX: 6.88
1998-1999: 5 AP classes
1999-2000: 8 AP classes
2000-2001: 8 AP classes
2001-2002: 15 AP classes
2002-2003: 7 AP classes
2003-2004: 9 AP classes
2004-2005: 9 AP classes
2005-2006: 10 AP classes
3 AP subjects; average class size 36.5;
0 sections of AP Math;
0 sections of AP Science;
Total AP enrollment: 365
Total HS enrollment: 2,533
2005-2006 OPPORTUNITY INDEX: 14.40

HIRAM JOHNSON HS
1997-1998: 7 AP classes
5 AP subjects: average class size 20.0
2 sections AP Math (2 subjects);
1 sections AP Science (1 subjects);
Total students enrolled in AP: 140
Total HS enrollment: 2,912
1997-1998 OPPORTUNITY INDEX: 4.8
1998-1999: 5 AP classes
1999-2000: 5 AP classes
2000-2001: 5 AP classes
2001-2002: 6 AP classes
2002-2003: 6 AP classes
2003-2004: 6 AP classes
2004-2005: 6 AP classes
2005-2006: 6 AP classes
6 AP subjects; average class size
1 section of AP Math (1 subject);

1 section of AP Science (1 subject);
Total AP enrollment: 93
Total HS enrollment: 2,060
2005-2006 OPPORTUNITY INDEX: 4.51

ARVIN HIGH SCHOOL
1997-1998 1 AP
1 AP subjects, average class size 27.7;
0 sections AP Math;
0 sections AP Science;
Students enrolled in AP: 28
Total HS enrollment: 2,136
1997-1998 OPPORTUNITY INDEX: 1.31
1998-1999 1 AP
1999-2000 2 AP
2000-2001 3 AP
2001-2002 7 AP
2002-2003 5 AP
2003-2004 6 AP
2004-2005 4 AP classes
2005-2006 6 AP classes
3 AP subjects, average class size 27.7;
4 sections AP Math (2 subjects)
0 sections AP Science;
Students enrolled in AP: 166
Total HS enrollment: 2,649
2005-2006 OPPORTUNITY INDEX: 6.26

AZUSA HS
1997-1998: 0 AP classes
Students enrolled in AP: 0
Total HS enrollment: 1,269
1997-1998 OPPORTUNITY INDEX: 0
1998-1999: 0 AP classes
1999-2000: 0 AP classes
2000-2001: 0 AP classes
2001-2002: 7 AP classes
2002-2003: 6 AP classes
2003-2004: 9 AP classes
2004-2005: 9 AP classes
2005-2006: 10 AP classes
8 AP subjects, average class size 26.0;
3 sections of AP math (2 subjects);
1 section of AP science (1 subject);
Students enrolled in AP: 260
Total HS enrollment: 1,563

2005-2006 OPPORTUNITY INDEX: 16.63

DUARTE HS
1997-1998: 5 AP classes
5 AP subjects: average class size
1 section AP Math (1 subject);
1 section AP Science (1 subject);
Total students enrolled in AP: 80
Total HS enrollment: 1,016
1997-1998 OPPORTUNITY INDEX: 7.87
1998-1999: 3 AP classes
1999-2000: 8 AP classes
2000-2001: 6 AP classes
2001-2002: 8 AP classes
2002-2003: 6 AP classes
2003-2004: 8 AP classes
2004-2005: 9 AP classes
2005-2006: 11 AP classes
8 AP subjects; average class size 27.5
1 sections of AP Math (1 subject);
2 sections of AP Science (2 subjects);
Total AP enrollment: 303
Total HS enrollment: 1,207
2005-2006 OPPORTUNITY INDEX: 25.10

Source: School Accountability Report Card (SARC) and California State Department of Education Data Quest. http://data1.cde.ca.gov/dataquest/ (Aug. 2006).

APPENDIX B

HIGH NUMBER OF AP COURSES OFFERED IN WEALTHY, PREDOMINANTLY WHITE PUBLIC HIGH SCHOOLS 1997-2005

BEVERLY HILLS HIGH SCHOOL

1997-1998: 32 AP classes
14 AP subjects: average class size
3 sections AP Math (3 subjects);
3 sections AP Science (2 subjects);
Total students enrolled in AP: 756
Total HS enrollment: 2,107
1997-1998 OPPORTUNITY INDEX: 35.88

1998-1999: 29 AP classes

1999-2000: 32 AP classes

2000-2001: 32 AP classes

2001-2002: 21 AP classes

2002-2003: 27 AP classes

2003-2004: 31 AP classes

2004-2005: 42 AP classes

2005-2006: 40 AP classes
18 AP subjects; average class size 27.2
6 sections of AP math (3 subjects);
8 sections of AP science (4 subjects);
Total AP enrollment: 1,090
Total HS enrollment: 2,362
OPPORTUNITY INDEX 2005-2006: 46.14

ARCADIA HIGH SCHOOL

1997-1998 45 AP
14 AP subjects, average class size 29.8;
10 sections AP Math (3 subjects);
6 sections AP Science (3 subjects)
Students enrolled in AP: 1,342
Total HS enrollment: 3,340
1997-1998 OPPORTUNITY INDEX: 40.17

1998-1999 58 AP

1999-2000 56 AP

2000-2001 64 AP

2001-2002 65 AP

2002-2003 67 AP

2003-2004 69 AP

2004-2005 75 AP

2005-2006 83 AP classes
19 AP subjects, average class size
21 sections AP Math (3 subjects);
21 sections AP Science (5 subjects);

Students enrolled in AP: 2,328 students
Total HS enrollment: 3,799
2005-2006 OPPORTUNITY INDEX: 61.27

HENRY GUNN HS
1997-1998: 15 AP classes
8 AP subjects: average class size
0 sections AP Math;
4 sections AP Science (2 subjects);
Total students enrolled in AP: 451
Total HS enrollment: 1,456
1997-1998 OPPORTUNITY INDEX: 30.97
1998-1999: 16 AP classes
1999-2000: 17 AP classes
2000-2001: 31 AP classes
2001-2002: 29 AP classes
2002-2003: 28 AP classes
2003-2004: 28 AP classes
2004-2005: 29 AP classes
2005-2006: 33 AP classes
11 AP subjects; average class size
0 sections of AP Math;
7 sections of AP Science (2subjects);
Total AP enrollment: 821
Total HS enrollment: 1,762
2005-2006 OPPORTUNITY INDEX: 45.59

UNIVERSITY HS
1997—1998: 43 AP classes
17 AP subjects; 34.4 average class size;
7 sections of AP math (3 subjects),
10 sections of AP science (3 subjects)
Students enrolled in AP: 1,478
Total HS enrollment: 2,319
1997-1998 OPPORTUNITY INDEX: 63.73
1998-1999: 45 AP classes
1999-2000: 46 AP classes
2000-2001: 43 AP classes
2001-2002: 51 AP classes
2002-2003: 42 AP classes
2003-2004: 41 AP classes
2004-2005: 44 AP classes
2005-2006: 47 AP classes
15 AP subjects; 33.6 average class size;
8 sections of AP math (3 subjects);
10 sections of AP science (3 subjects);

Total AP and IB enrollment: 1,578
Total HS enrollment: 2,176
2005-2006 OPPORTUNITY INDEX: 72.51

TORREY PINES HS
1997-1998: 43 AP classes
14 AP Subjects; 31.1 average class size;
6 sections of AP Math (3 subjects);
8 sections of AP Science and 3 IB (3 subjects);
Students enrolled in AP: 1,437
Total HS enrollment: 2,340
1997-1998 OPPORTUNITY INDEX: 61.41
1998-1999: 40 AP classes
1999-2000: 48 AP classes
2000-2001: 48 AP classes
2001-2002: 57 AP classes
2002-2003: 75 AP classes
2003-2004: 81 AP classes
2004-2005: 94 AP classes
2005-2006: 92 AP classes
20 AP Subjects; 30.2 average class size;
17 sections of AP math (3 subjects);
20 sections of AP science (5 subjects);
Students enrolled in AP: 2,778
Total HS enrollment: 3,133
2005-2006 OPPORTUNITY INDEX: 88.66

CORONA DEL MAR HS
1997-1998: 18 AP classes
11 AP subjects: average class size 25.1
2 sections AP Math (1 subjects);
3 sections AP Science (2 subjects);
Total students enrolled in AP: 452
Total HS enrollment: 1,076
1997-1998 OPPORTUNITY INDEX: 42.00
1998-1999: 17 AP classes
1999-2000: 16 AP classes
2000-2001: 25 AP classes
2001-2002: 21 AP classes
2002-2003: 29 AP classes
2003-2004: 22 AP classes
2004-2005: 24 AP classes
2005-2006: 29 AP classes
12 AP subjects; average class size 28.6;
6 sections of AP Math (2 subjects);
5 sections of AP Science (2 subjects);

Total AP enrollment: 829
Total HS enrollment: 1,452
2005-2006 OPPORTUNITY INDEX: 57.09

DIAMOND BAR HS
1997—1998: 51 AP classes
19 AP subjects; 30.6 average class size;
14 sections of AP math (3 subjects),
14 sections of AP science (5 subjects)
Students enrolled in AP: 1,614
Total HS enrollment: 2,881
1997-1998 OPPORTUNITY INDEX: 56.02
1998-1999: 55 AP classes
1999-2000: 55 AP classes
2000-2001: 52 AP classes
2001-2002: 65 AP classes
2002-2003: 61 AP classes
2003-2004: 70 AP classes
2004-2005: 86 AP classes
2005-2006: 82 AP classes
29 AP subjects; 28 average class size;
22 sections of AP math (3 subjects);
21 sections of AP science (5 subjects);
(Also have 3 science IB and 2 math)
Total AP and IB enrollment: 2,308
Total HS enrollment: 3,314
2005-2006 OPPORTUNITY INDEX: 69.64

Source: School Accountability Report Card (SARC) and California State Department of Education Data Quest, http://data1.cde.ca.gov/dataquest/ (Aug. 2006).