

Napa Valley College's Superpower: Knowing Our "Y"



Thuy Thi Nguyen

Keynote Address

Flex Day, August 2025



GARCIA HERNÁNDEZ SAWHNEY LLP



School Drive Aids Refugees



Dien, left, receiving the donation from Monica.

KOBE — St. Michael's International School donated a check for 120,565 yen Thursday to Vietnamese refugees presently housed at the Rokko Kaikan here.

The check was handed to Dien Tai Nguyen, a representative of the refugees, by Monica Barraclough, a four-year-old British girl from the school's nursery department, in a presentation ceremony held at St. Michael's chapel from 11.30 a.m.

"Thank you very much," said Dien in English. "Really I have no words to express my thanks for your sincere gift. I am impressed by your consideration to the people of Vietnam who are leading a hard life in Kobe." Monica smiled and made a bow.

The fund was obtained through the school's "Good

Neighbor Week," observed from Nov. 14 to 18. Every day, the 200 students, from kindergarten to advanced classes and English Language School, spared 45 minutes at lunchtime to hold various events to raise the money.

They operated games, sold stationery goods, flowers, coffee, cakes and cookies brought from home, held auctions and made sandwiches. Most of the items were sold for 10 or 20 yen, prices even small children could afford.

The Rokko Kaikan now houses a total of 56 Vietnamese refugees representing 12 households. On Nov. 3 and 15, 30 refugees left the Kaikan for the United States to start a new life.

Dien told the Mainichi Daily News that those remaining need oil, and oil stoves, gloves and clothing for the winter.

School Drive Aids Refugees



Dien, left, receiving the donation from Monica.

KOBE — St. Michael's International School donated a check for 120,565 yen Thursday to Vietnamese refugees presently housed at the Rokko Kaikan here.

The check was handed to Dien Tai Nguyen, a representative of the refugees, by Monica Barraclough, a four-year-old British girl from the school's nursery department, in a presentation ceremony held at St. Michael's chapel from 11.30 a.m.

"Thank you very much," said Dien in English. "Really I have no words to express my thanks for your sincere gift. I am impressed by your consideration to the people of Vietnam who are leading a hard life in Kobe." Monica smiled and made a bow.

The fund was obtained through the school's "Good

Neighbor Week," observed from Nov. 14 to 18. Every day, the 200 students, from kindergarten to advanced classes and English Language School, spared 45 minutes at lunchtime to hold various events to raise the money.

They operated games, sold stationery goods, flowers, coffee, cakes and cookies brought from home, held auctions and made sandwiches. Most of the items were sold for 10 or 20 yen, prices even small children could afford.

The Rokko Kaikan now houses a total of 56 Vietnamese refugees representing 12 households. On Nov. 3 and 15, 30 refugees left the Kaikan for the United States to start a new life.

Dien told the Mainichi Daily News that those remaining need oil, and oil stoves, gloves and clothing for the winter.

Black Americans urge admission of the Indochinese refugees

Throughout non-Central Asia, thousands of unfortunate refugees from Vietnam, Laos and Cambodia languish in squalid camps. For many, the future offers frightening prospects: social ostracism in the countries to which they fled, endless unemployment, and — even worse — deportation to their homelands resulting in almost certain death.

As concerned citizens of the black community — a community which itself continues to endure widespread economic deprivation — we sympathize with our Asian brothers and sisters in the refugee camps. But our concern is not limited to the safe haven of their sympathy. We must move forward to action.

Many well-meaning Americans have argued that action on this pressing problem is unworkable in economic terms and potentially explosive. We recognize the precarious state of America's economy — especially its devastating manifestations in the black community — and we realize that any program to assist these refugees will entail modest economic costs. Yet, we oppose the dehumanizing tendency of placing price tags on the heads of Indochinese refugees.

In the past, America has displayed a capacity to adapt to unusual and seemingly impossible situations. We believe that America can once again reach out to an embattled minority — these refugees — and offer them haven and hope.

Thus, we call upon President Carter and the United States Congress to facilitate the entrance of these refugees into the United States in the same spirit that we have urged our country to accept the victims of South Africa's apartheid.

Through our arduous struggle for civil, political and economic rights in America, we have learned a fundamental lesson: the battle against human misery is indivisible. Our continuing struggle for economic and political freedom is inextricably linked to the struggle of Indochinese refugees who also seek freedom. If our government lacks compassion for these dispossessed human beings, it is difficult to believe that the same government can have much compassion for America's black minority, or for America's poor.

Admission fund for identification only

Rev. Ralph D. Abernethy
President, Southern SCLC
Alexander J. Allen
Deputy Executive Director
National Urban League
Hon. Madison Evers
Gen. Counsel, Washington, DC
Daisy Bates
NAACP
Howard E. Bryant
National Lawyers
Dr. King Institute
Hon. Julian Bond
Georgia Bar Association
William H. Burt
Texas, NYC Central Labor Council
John A. Kerner
Soc. Sec. Adm. Urban Coalition
Kerens Burke
American University, NAACP
Buckley Russell
Pres. National Lawyers League
Robert E. Carroll
Vice President, UCHT
Dr. Samuel DeLoach Cook
Illinois University
Hon. A.J. Conner
Pres. National Conference
of Black Men
Merrill Cooper
President, Local 14, TWU
Alonso A. Cren
Soc. Sec. Adm. Public School
Gloria Cottrell
Director in Soc. Sec. Adm. NAACP
Walter C. Davis
Education Director, AFL-CIO
Leonard DuFau
Director, Community Relations
Lincoln Center
Hazel N. Duke
N.Y.C. Conf. of Branches, NAACP
James E. Dunne
New York Committee for
Hon. Marvin M. Dwyer
Lawrence, Governor, California
Dick Edwards
Senior Editor, News Week
Charles Evans
Moses, Texas, Minn.
Joseph Fisher
Local 10, UMW
The Most Reverend Joseph A.
Frasco, N.Y.D.
Anthony Russo, Jewish Council
William S. Gey
New York Committee for
Hon. Marvin M. Dwyer
Lawrence, Governor, California
Dick Edwards
Senior Editor, News Week
Charles Evans
Moses, Texas, Minn.
Joseph Fisher
Local 10, UMW
The Most Reverend Joseph A.
Frasco, N.Y.D.
Anthony Russo, Jewish Council
William S. Gey
New York Committee for

William E. Hoffer
Executive Director
Western Institute
Lloyd Hampton
San Jose
Loren Harris
Pres. Village Church, NAACP
Hon. Richard C. Hatcher
Mayor, Chicago
Dorothy Hight
Pres. Nat. Council of Negro Women
Arlene E. Hight
President, NAACP
Bishop Richard A. Hildebrand
A.M.E. Church
Norman Hill
Executive Director
A. Policy Institute
Verna Hill
Vice President
Amer. Federation of Teachers
Hon. Herman M. Holloman
Deputy Sec. State
Carl Johnson
Pres. Nat. Urban Coalition
Lorraine Hunter
Executive Director, NAACP
Rhyon Jackson
Professor, Univ. of Mo. Col.
as Chapel Hill
Rev. Jesse Jackson
President, Operation PUSH
Hon. Maynard Jackson
Mayor, Atlanta, Georgia
Yvonne E. Jordan, Jr.
Pres. National Urban League
Hon. Joe L. Keith
Member, Florida Legislature
Rev. Thomas Kilgore, Jr.
Pres. Pittsburgh National Baptist
Convention
Carole Scott King
President
President, Letter King, Inc.
Center for Social Change
Rev. Martin Luther King, Jr.
Executive, Baptist Church
Atlanta, Georgia
K.V. Lewis
Asst. to Pres. American
Federation of Teachers
J. Brian Llewellyn
President, FBI Black Men
Mrs. Arthur L. Logan
Executive Committee
Hon. Ralph New York City
Joseph E. Lowery
President
A.M.E. Church
President, National Association of America

Ernest Rice McKinney
Labor Director
David McKinney
Soc. Sec. Adm. Council
Dorothy Mayne
Dr. Helen School of the Arts
Rev. Dr. Benjamin C. Mays
Pres. Atlanta Board of Ed.
Charles Mitchell
Pres. Leadership Conf. on Civil
Rights
Civil Rights League
David Robinson of America
Frank Robinson
Chairman, The Negro Fund
James M. Nabholz, III
Asst. Counsel, NAACP
Local Director, A. Fair, Ford
Frederick O'Neal
Pres. American
Asst. & Sec. of America
James Parks
Asst. Sec. of Foreign Center
Richard Perry
Vice President
Real Estate International Union
Jasper Peyton
Assistant Pres. Dir. UMW
William E. Pollard
Clerk, Nat. AFL-CIO
Robert E. Powell
Vice President
Laborer International Union
Yvonne Price
Pres. A.M.E. Leadership
Conference on Civil Rights
A. Philip Randolph
Pres. President, AFL-CIO
Justin Rader
Chairman, National Council of Local
Black Church Officials
Saunders Redding
President, Council on Religion

William Ross
Gen. Dir. Development &
Public Programs
Walter Rabb
International Vice President
United Furniture Workers
Harold L. Sheffield
Pres. Senate Caucus, Coalition
of Black Trade Unions
George Shirley
Chairman
International Opera Company
Harold R. Sims
Vice Pres. Johnson & Johnson
Lawrence D. Stephens
Dir. Human Resources
Asst. Person. Workers Union
Mure Stapp
International Vice Pres. U.A.W.
Penny Sutton
International Lawyer
James M. Tatum
A. Counsel Pres. of Labor
William L. Taylor
Pres. Catholic Univ. Law School
Hon. Sterling Tucker
Chairman, D.C. Civil Council
Barbara Van Buren
Clerk, Nat. Dir.
Asst. Federation of Teachers
Rev. Dr. Wyatt Tee Walker
Clergy Support, Church, N.Y.C.
Hon. Robert C. Weaver
Chairman, Nat. House of
Congress
Roy Wilkins
Executive Director, NAACP
Hon. Coleman Young
Mayor, Detroit, Mich.
Elmer Young, Jr.
Vice Pres. Nat. Council on Crime

You can alleviate the plight of Indochinese refugees, and help defray the cost of this advertisement, by sending your tax-deductible contribution to the International Rescue Committee, attention Bayard Rustin. Make your checks payable to the International Rescue Committee.

International Rescue Committee
188 Park Avenue South, New York, N.Y. 10014
A fund to help, more in one month's time.

(SOURCE: SOKUNTHARY SVAY FOUND THIS IN THE FOREIGN DESK RECORDS OF THE NEW YORK TIMES ARCHIVES AT THE BROOKE RUSSELL ASTOR READING ROOM OF THE NEW YORK PUBLIC LIBRARY.)





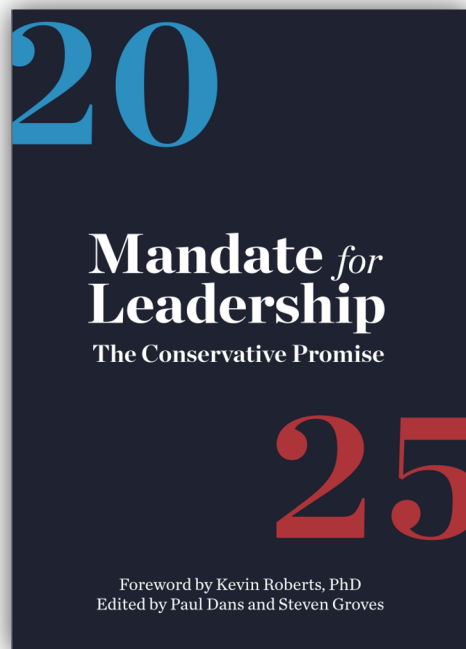


A new school year, with an increasingly challenging political & legal landscape nationally . . . ** What FEELINGS does this topic bring up for you?

Join at
slido.com
#2277



GARCIA HERNÁNDEZ SAWHNEY LLP



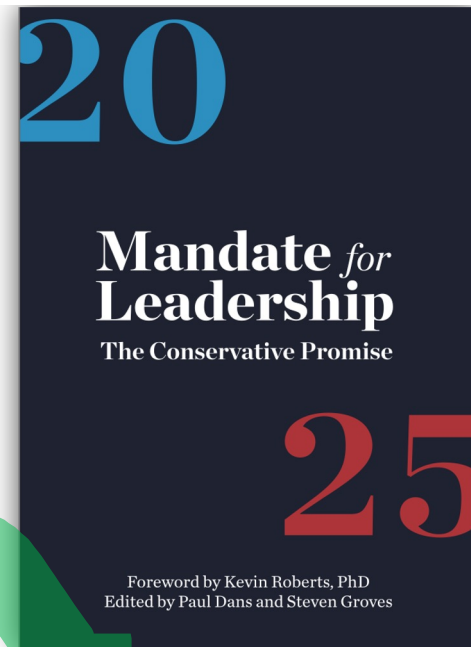
*“The next conservative President must make the institutions of American civil society **hard targets for woke culture warriors**. This starts with **deleting the terms sexual orientation and gender identity (“SOGI”), diversity, equity and inclusion (“DEI”), gender, gender equality, gender equity, gender awareness, gender-sensitive, abortion, reproductive health, reproductive rights, and any other term used to deprive Americans of the First Amendment rights out of every federal rule, agency regulation, contract, grant, regulation, and piece of legislation that exists.**”*

assignments in which students must defend the false idea that America is systematically racist, the theory is actively disrupting the values that hold communities together such as equality under the law and colorblindness.

- **As such, lawmakers should design legislation that prevents the theory from spreading discrimination.**
- **For K–12 systems under their jurisdiction, federal lawmakers should adopt proposals that say no individual should receive punishment or benefits based on the color of their skin.**
- **Furthermore, school officials should not require students or teachers to believe that individuals are guilty or responsible for the actions of others based on race or ethnicity.**

Educators should not be forced to discuss contemporary political issues but neither should they refrain from discussing certain subjects in an attempt to protect students from ideas with which they disagree. Proposals such as this should result in robust classroom discussions, not censorship. At the state level, states should require schools to post classroom materials online to provide maximum transparency to parents.

- **Again, specifically for K–12 systems under federal authority, Congress and the next Administration should support existing state and federal civil rights laws and add to such laws a prohibition on compelled speech.**

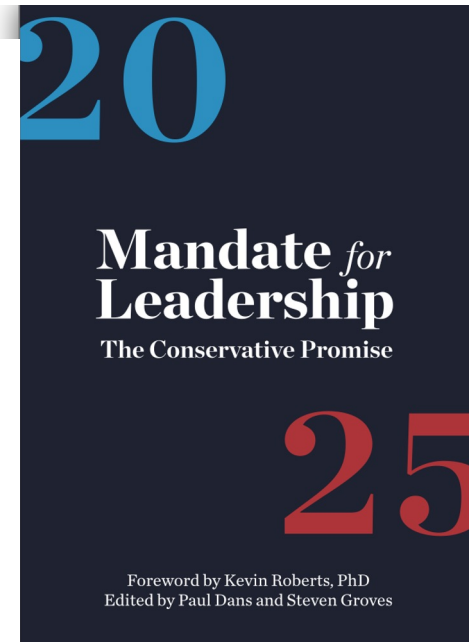


By its very design, critical race theory has an “applied” dimension, as its founders state in their essays that define the theory. Those who subscribe to the theory believe that racism (in this case, treating individuals differently based on race) is appropriate—necessary, even—making the theory more than merely an analytical tool to describe race in public and private life. The theory disrupts America’s Founding ideals of freedom and opportunity. So, when critical race theory is used as part of school activities such as mandatory affinity groups, teacher training programs in which educators are required to confess their privilege, or school

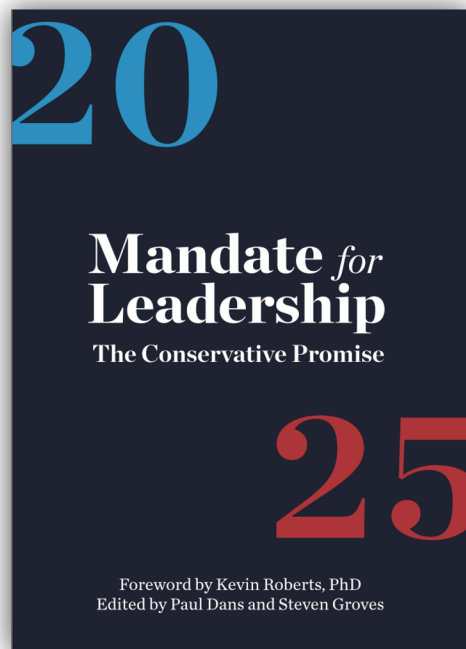
— 342 —

2025 Presidential Transition Project

assignments in which students must defend the false idea that America is systematically racist, the theory is actively disrupting the values that hold communities together such as equality under the law and colorblindness.



Project 2025: “Lawful”



“Restoring state and local control over education funding. As Washington begins to downsize its intervention in education, existing funding should be sent to states as grants over which they have full control, enabling states to put federal funding toward any lawful education purpose under state law.”

Executive Order #14151

January 20, 2025

- ❁ “Ending Radical and Wasteful Government DEI Programs and Preferencing”
- ❁ Orders termination of “all discriminatory programs, including **illegal** DEI and ‘diversity, equity, inclusion, and accessibility’ (DEIA)” policies and programs across the federal government (including training)
- ❁ Directs the White House Office of Management and Budget (OMB), assisted by the Attorney General and the Office of Personnel Management (OPM), to coordinate with agencies to **terminate federal programs they deem discriminatory**
- ❁ Agencies must give OMB a “list” of all “Federal grantees who received Federal funding to provide or advance DEI, DEIA, or “environmental justice” programs, services, or activities since January 20, 2021.”

Executive Order #14173

January 21, 2025

- “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”
- Rescinded several DEI EOs including:
 - ◆ EO 11246/the Equal Employment Opportunity Act which required federal contractors to affirmatively prevent discrimination.
 - ◆ New EO states actors "have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences," and that these DEI practices "can violate the civil-rights laws of this Nation."
 - ◆ Orders OFCCP to “immediately cease” promoting diversity or engaging in “workforce balancing” on protected categories

Executive Order #14190

January 29, 2025

- 🌀 “Ending Radical Indoctrination in K-12 Schooling”
- 🌀 Within 90 days “the Secretary of Education, ..., in consultation with the Attorney General, shall provide an Ending Indoctrination Strategy”
 - ◆ Calls for a summary of “All Federal funding sources and streams, including grants or contracts, that directly or indirectly support or subsidize the instruction, advancement, or promotion of gender ideology or discriminatory equity ideology”
 - ◆ Calls for a plan on “eliminating Federal funding or support for illegal and discriminatory treatment and indoctrination in K-12 schools, including based on...discriminatory equity ideology”



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ACTING ASSISTANT SECRETARY

February 14, 2025

Dear Colleague:

Discrimination on the basis of race, color, or national origin is illegal and morally reprehensible. Accordingly, I write to clarify and reaffirm the nondiscrimination obligations of schools and other entities that receive federal financial assistance from the United States Department of Education (Department).¹ This letter explains and reiterates existing legal requirements under Title VI of the Civil Rights Act of 1964,² the Equal Protection Clause of the United States Constitution, and other relevant authorities.³

In recent years, American educational institutions have discriminated against students on the basis of race, including white and Asian students, many of whom come from disadvantaged backgrounds and low-income families. These institutions' embrace of pervasive and repugnant race-based preferences and other forms of racial discrimination have emanated throughout every facet of academia. For example, colleges, universities, and K-12 schools have routinely used race as a factor in admissions, financial aid, hiring, training, and other institutional programming. In a shameful echo of a darker period in this country's history, many American schools and universities even encourage segregation by race at graduation ceremonies and in dormitories and other facilities.



GARCIA HERNÁNDEZ SAWHNEY LLP

Judge strikes down Education Department guidance against school diversity programs

Politics Aug 14, 2025 5:57 PM EDT

WASHINGTON (AP) — A federal judge on Thursday struck down two Trump administration actions aimed at eliminating diversity, equity and inclusion programs at the nation's schools and universities.

In her ruling, U.S. District Judge Stephanie Gallagher in Maryland found that the Education Department violated the law when it threatened to cut federal funding from educational institutions that continued with DEI initiatives.


The guidance has been on hold since April when three federal judges blocked various portions of the Education Department's anti-DEI measures.



Office of the Attorney General
Washington, D. C. 20530

July 29, 2025

MEMORANDUM FOR ALL FEDERAL AGENCIES

FROM: THE ATTORNEY GENERAL 

SUBJECT: GUIDANCE FOR RECIPIENTS OF FEDERAL FUNDING
REGARDING UNLAWFUL DISCRIMINATION

I. INTRODUCTION

One of our Nation's bedrock principles is that all Americans must be treated equally. Not only is discrimination based on protected characteristics illegal under federal law, but it is also dangerous, demeaning, and immoral. Yet in recent years, the federal government has turned a blind eye toward, or even encouraged, various discriminatory practices, seemingly because of their purportedly benign labels, objectives, or intentions. No longer. Going forward, the federal government will not stand by while recipients of federal funds engage in discrimination.

This guidance clarifies the application of federal antidiscrimination laws to programs or initiatives that may involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion ("DEI") programs.¹ Entities receiving federal funds, like all other entities subject to federal antidiscrimination laws, must ensure that their programs and activities comply with federal law and do not discriminate on the basis of race, color, national origin, sex, religion, or other protected characteristics—no matter the program's labels, objectives, or intentions. In furtherance of that requirement, this guidance identifies "Best Practices" as non-binding suggestions to help entities comply with federal antidiscrimination laws and avoid legal pitfalls; these are not mandatory requirements but rather practical recommendations to minimize the risk of violations.

Entities that receive federal financial assistance or that are otherwise subject to federal anti-discrimination laws, including educational institutions, state and local governments, and public and private employers, should review this guidance carefully to ensure all programs comply with their legal obligations.

¹ DEI programs go by other names as well, such as Diversity, Equity, Inclusion, and Accessibility ("DEIA") and Diversity, Equity, Inclusion, and Belonging ("DEIB").

Lawsuits Filed

Protection

- Regarding the administration's Executive Orders, 362 lawsuits have been filed collectively against them. In many of those related to higher education, Diversity, Equity, and Inclusion, and funding for ancillary student supports (such as Americorps), preliminary injunctions have been granted, meaning that the law is finding on the side of Diversity, Equity, and Inclusion; Institutional Autonomy; and Academic Freedom.

From Ed4All



GARCIA HERNÁNDEZ SAWHNEY LLP

California Proposition 209

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

1996 ballot measure, amended the CA Constitution
Cal. Const., art. I, § 31, subd. (a)



GARCIA HERNÁNDEZ SAWHNEY LLP

Ward off the chilling effect . . .

“...[w]hat typically happens in higher education when people are managing new legal restrictions. Research shows that the swirl of dialogue **can create chilling effects far beyond laws’ requirements**. We need to be vigilant to this tendency...they call it **repressive legalism.**”

Proposition 209

November, 1996

Proposition 209 Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities

Background

The federal, state, and local governments run many programs intended to increase opportunities for various groups--including women and racial and ethnic minority groups. These programs are commonly called "affirmative action" programs. For example, state law identifies specific goals for the participation of women-owned and minority-owned companies on work involved with state contracts. State departments are expected, but not required, to meet these goals, which include that at least 15 percent of the value of contract work should be done by minority-owned companies and at least 5 percent should be done by women-owned companies. The law requires departments, however, to reject bids from companies that have not made sufficient "good faith efforts" to meet these goals.

Legislative Analyst's Office: https://lao.ca.gov/ballot/1996/prop209_11_1996.html

CA Prop 209

Public Schools and Community Colleges

The measure also could affect funding for public schools (kindergarten through grade 12) and community college programs. For instance, the measure could eliminate, or cause fundamental changes to, *voluntary* desegregation programs run by school districts. (It would not, however, affect *court-ordered* desegregation programs.) Examples of desegregation spending that could be affected by the measure include the special funding given to (1) "magnet" schools (in those cases where race or ethnicity are preferential factors in the admission of students to the schools) and (2) designated "racially isolated minority schools" that are located in areas with high proportions of racial or ethnic minorities. We estimate that up to \$60 million of state and local funds spent each year on voluntary desegregation programs may be affected by the measure.

In addition, the measure would affect a variety of public school and community college programs such as counseling, tutoring, outreach, student financial aid, and financial aid to selected school districts in those cases where the programs provide preferences to individuals or schools based on race, sex, ethnicity, or national origin. Funds spent on these programs total at least \$15 million each year.

Thus, the measure could affect up to \$75 million in state spending in public schools and community colleges.

The State Constitution requires the state to spend a certain amount each year on public schools and community colleges. As a result, under most situations, the Constitution would require that funds that cannot be spent on programs because of this measure instead would have to be spent for *other* public school and community college programs.

Legislative Analyst's Office: https://lao.ca.gov/ballot/1996/prop209_11_1996.html

THE EQUITABLE PROTECTION PRINCIPLE

**HOW CALIFORNIA COMMUNITY
COLLEGES CAN MAKE PROGRESS
TOWARD RACIAL EQUITY IN
TODAY'S LEGAL CLIMATE**

Thuy Thi Nguyen, J.D.

Partner, Garcia Hernández Sawhney, LLP

USC Race and Equity Center



July 2023

Focused Outreach

PROPOSITION 209	Our “Why” Race-Neutral “Race-Conscious?”/ “Race-Based?” Race-Based that violates Prop 209	SCOTUS	Compelling Interest Race-Neutral Race-Based Race-Based that violates Equal Protection Clause “Strict Scrutiny”
A. Proposition 209: California Courts Provide Guidance on How Public Entities Could Still Have Race-conscious and Race-based Remedial Policies Proposition 209 is a statewide ballot measure that amended the California Constitution, in part, that “the state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” (Cal. Const., art. I, § 31, subd. (a).). The courts have consistently held that state and local public agencies’ policies and procedures that give special scoring advantage to minority and women applicants in employment and contracting violate Proposition 209. They also nullified policies that set hiring goals and timetables for minorities and women (also known as racial and gender quotas). Nevertheless, the California courts have also provided guidance on what could still be done to achieve racial diversity.		FOCUSED OUTREACH BASED ON RACE Statutory laws enacted or amended after the passage of Proposition 209 offer clarity on what must still be done to achieve racial diversity. For instance, California Government Code Section 7400 explicitly creates an obligation to engage in focused outreach. This statutory requirement applies to all public entities, including community colleges, and even provides examples of focused outreach such as outreach efforts with women publication and minority conferences. Another example specific to community colleges is Title 5, Sections 53024.1 and 53001(b) which state that “[e]stablishing and maintaining a richly diverse workforce is an on-going process” and defines “diversity” to mean “a condition of broad inclusion in an employment environment that offers equal employment opportunity for all persons. It requires both the presence, and the respectful treatment, of individuals from a wide range of <i>ethnic, racial</i> , age, national origin, religious, gender, sexual orientation, disability and socio-economic backgrounds (<i>emphasis added</i>).” Such legal requirement makes it clear that the state finds racial and ethnic diversity among community college employees a compelling interest. In addition, case law has also provided guidance on what could still be done to achieve racial diversity.	

SUPREME COURT OF THE UNITED STATES

Nos. 20–1199 and 21–707

STUDENTS FOR FAIR ADMISSIONS, INC.,
PETITIONER

20–1199

v.

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

STUDENTS FOR FAIR ADMISSIONS, INC.,
PETITIONER

21–707

v.

UNIVERSITY OF NORTH CAROLINA, ET AL.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED
STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 29, 2023]

CHIEF JUSTICE ROBERTS delivered the opinion of the
Court.

In these cases we consider whether the admissions systems used by Harvard College and the University of North Carolina, two of the oldest institutions of higher learning in the United States, are lawful under the Equal Protection Clause of the Fourteenth Amendment.



GARCIA HERNÁNDEZ SAWHNEY LLP

SCOTUS

Compelling Interest

Race-Neutral

Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”



Opinion of the Court

First, the interests they view as compelling cannot be subjected to meaningful judicial review. Harvard identifies the following educational benefits that it is pursuing: (1) “training future leaders in the public and private sectors”; (2) preparing graduates to “adapt to an increasingly pluralistic society”; (3) “better educating its students through diversity”; and (4) “producing new knowledge stemming from diverse outlooks.” 980 F. 3d, at 173–174. UNC points to similar benefits, namely, “(1) promoting the robust exchange of ideas; (2) broadening and refining understanding; (3) fostering innovation and problem-solving; (4) preparing engaged and productive citizens and leaders; [and] (5) enhancing appreciation, respect, and empathy, cross-racial understanding, and breaking down stereotypes.” 567 F. Supp. 3d, at 656.

Although these are commendable goals, they are not sufficiently coherent for purposes of strict scrutiny. At the outset, it is unclear how courts are supposed to measure any of these goals. How is a court to know whether leaders have been adequately “train[ed]”; whether the exchange of ideas is “robust”; or whether “new knowledge” is being developed? *Ibid.*; 980 F. 3d, at 173–174. Even if these goals could somehow be measured, moreover, how is a court to know when they have been reached, and when the perilous remedy of racial preferences may cease? There is no particular point at which there exists sufficient “innovation and problem-solving,” or students who are appropriately “engaged and productive.” 567 F. Supp. 3d, at 656. Finally, the question in this context is not one of *no* diversity or of *some*: it is a question of degree. How many fewer leaders Harvard would create without racial preferences, or how much poorer the education at Harvard would be, are inquiries no court could resolve.

Comparing respondents’ asserted goals to interests we have recognized as compelling further illustrates their elusive nature. In the context of racial violence in a prison, for

SCOTUS

Compelling Interest

Race-Neutral

Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”

SCOTUS

Compelling Interest

⁴The United States as *amicus curiae* contends that race-based admissions programs further compelling interests at our Nation's military academies. No military academy is a party to these cases, however, and none of the courts below addressed the propriety of race-based admissions systems in that context. This opinion also does not address the issue, in light of the potentially distinct interests that military academies may present.

RACE-BASED THAT VIOLATES
Equal Protection Clause
“Strict Scrutiny”

CA Prop 209

Our “Why”

Race-Neutral

“Race-Conscious?”
“Race-Based?”

Race-Based that violates
Prop 209



SCOTUS

Compelling Interest

Race-Neutral

Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”

Our **Y** Our *Why* = Compelling Interest

“We want to do X,
because we are interested in **Y**”

UNC/Harvard's Compelling Interest

“We want to do X,
because we are interested in Y.”

“We want to admit a racially diverse
student population,
because we are interested in the educational
benefits (e.g., robust classroom discussion).”

CA Prop 209

Our “Why”

Race-Neutral

“Race-Conscious?”
“Race-Based?”

Race-Based that violates
Prop 209



SCOTUS

Compelling Interest

Race-Neutral

Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”

California Court of Appeals

and consideration of communitywide demographic factors. White and African-American students from the same neighborhood receive the same diversity rating and the same treatment.” The Court specifically stated that “*not all race-conscious actions were meant to be eliminated* – only those that discriminated against, or granted preferential treatment to, individuals or groups on the basis of that individual’s or group’s race (*emphasis added*).”

American Civil Rights Foundation v. Berkeley Unified School District (2009)

Page 10 of report

Compelling Interest!

“We want to do X,
because we are interested in Y.”

“We want to racially integrate Berkeley USD,
because we are interested in reversing the detrimental
effects of school segregation (Brown v. Board of Ed)
/ students learning people, leadership skills to prepare
them for college and the work world.”



CA Community College Example

“We want to do X,
because we are interested in Y.”

“We want to hire a racially diverse
faculty cohort,
because we are interested in narrowing/closing
student success racial equity gaps.”

Diversity Benefits Students

Studies prove the educational benefits of a diverse community college faculty.

Narrowing achievement gaps by **19-51%**



Fairlie, R. W., Hoffman, F., Oreopoulos, P. (2014). *A Community College Instructor Like Me: Race and Ethnicity Interactions in the Classroom*. American Economic Review

How Large are Effects Relative to Student Success Gap?

	Underrepresented Minority (White-Min.)			
	Similar Instructor Effect	Achievement Gap	Percent of Gap	Minority Base Rate
Dropped Course	0.020	-0.039	51%	0.281
Passed Course	0.012	0.054	23%	0.835
Course Grade	0.054	0.318	19%	2.58
Grade B or Higher	0.024	0.112	21%	0.567

Fairlie, R. W., Hoffman, F., Oreopoulos, P. (2014).

A Community College Instructor Like Me: Race and Ethnicity Interactions in the Classroom. American Economic Review

An Educational Program Example

“We want to do X,
because we are interested in Y.”

“We want to increase AB 288 dual enrollment,
because we are interested in increasing Black and
Latino students’ college degree attainment.”



The Education Trust

Who Benefits from Dual Enrollment Programs?

In many states, dual enrollment has been historically used as an acceleration strategy for high-achieving learners, and often served middle- or higher-income students, though these opportunities have been found to be highly beneficial for all students. But taking college courses in high school has been found to benefit African American, Latino, and White students, and its positive effects on college degree attainment are even stronger for low-income students.



GARCIA HERNÁNDEZ SAWHNEY LLP

Our “Why” = Compelling Interest

- ❖ Research / Data (Quantitative & Qualitative)
- ❖ Theoretical Framework
- ❖ College Survey/Data (Quantitative & Qualitative)
- ❖ College Mission/Vision/Values

Other Evidence?

- ❖ Outside of higher education
- ❖ Outside of education

CA Prop 209

Our “Why”

Race-Neutral

“Race-Conscious?”
“Race-Based?”

Race-Based that violates
Prop 209



SCOTUS

Compelling Interest

Race-Neutral

Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”

CA Prop 209

Our “Why”

Race-Neutral

“Race-Conscious”
“Race-Based”

Race-Based that violates
Prop 209



SCOTUS

Compelling Interest

Race-Neutral

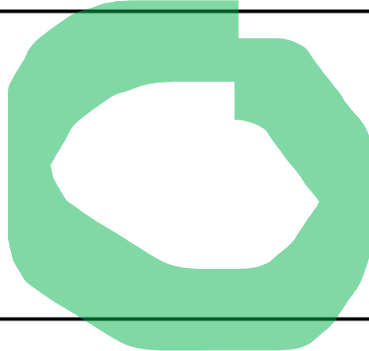
Race-Based

Race-Based that violates
Equal Protection Clause
“Strict Scrutiny”

Policy Frame

Structural → *Cultural* → *Individual*

The Equitable Protection Principle

	<i>Structural</i>	<i>Cultural</i>	<i>Individual</i>
<i>Our “Why” Compelling Interest</i>			
<i>Race-neutral</i>			
<i>Race-conscious</i>			



STATE OF CALIFORNIA

ERIK SKINNER, INTERIM CHANCELLOR

CALIFORNIA COMMUNITY COLLEGES

CHANCELLOR'S OFFICE


1102 Q STREET, SUITE 4554
SACRAMENTO, CA 95811-6549
(916) 445-8732
<http://www.cccco.edu>

OFFICE OF GENERAL COUNSEL

Thuy T. Nguyen, *Interim General Counsel/
Vice Chancellor*
Jake Knapp, *Deputy Counsel*
Peter V. Khang, *Deputy Counsel*

DATE: June 17, 2016

TO: Chief Executive Officers (Chancellor/Presidents and Superintendents/Presidents)
Presidents of Boards of Trustees
Community College Attorneys
Chief Human Resources Officers
Chief Instructional Officers
Academic Senate Presidents
Equal Employment Opportunity & Diversity Committee Chairs
Other Interested Parties

FROM: Thuy Thi Nguyen 
Interim General Counsel / Vice Chancellor

SUBJECT: **Legal Opinion 16-04: Sixteenth Advisory on Proposition 209 and Equal Employment Opportunity**

The purpose of this Legal Opinion is to provide legal guidance on developments in Proposition 209 and Equal Employment Opportunity ("EEO") laws since the last Chancellor's Office Legal Opinion on Proposition 209 in 2002. This Opinion also addresses questions raised by faculty, classified professionals, and administrators on faculty diversity during various statewide EEO trainings and webinars that the Office of General Counsel conducted this academic year.

Federal and state employment laws are categorized into two areas: non-discrimination laws and equal employment opportunity (inclusionary) laws – two sides of the same coin. On one side of the coin, the Chancellor's Office, particularly the Office of the General Counsel, monitors non-discrimination laws and handles appeals of student discrimination complaints. On the other side of the coin, the Chancellor's Office also oversees the EEO laws in Title 5 of the California Code of Regulations related to inclusionary hiring practices and has authority to monitor and withhold funds if the Office believes there are patterns of discrimination and non-compliance with certain regulatory provisions.¹

¹ All regulatory references of "Title 5" are to Title 5 of the California Code of Regulations.

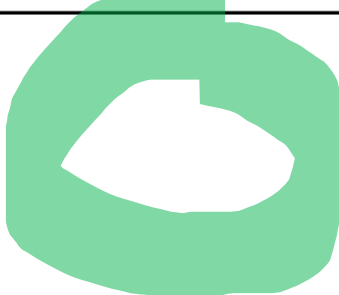
Unconscious/Implicit Bias

Screening/selection committee shall be trained on:

- (a) federal and state **law**, including Title 5;
- (b) the **educational** benefits of workforce diversity;
- (c) the elimination of **bias** in hiring decisions; and
- (d) **best practices** in serving on a selection/screening committee.

California Title 5, § 53003(c)

The Equitable Protection Principle

	<i>Structural</i>	<i>Cultural</i>	<i>Individual</i>
<i>Our “Why” Compelling Interest</i>			
<i>Race-neutral</i>			
<i>Race-conscious</i>			

Growth Mindset



Growth Mindset

Study finds STEM achievement gaps shrink by nearly half when faculty view intelligence as malleable

First universitywide analysis of its type finds professors' 'growth mindsets' are associated with better educational outcomes for all students, especially underrepresented minorities

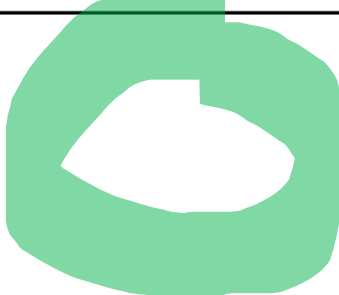
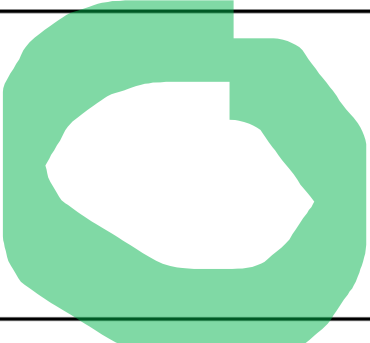
FOR IMMEDIATE RELEASE | Feb 15, 2019

BLOOMINGTON, Ind. – In a major analysis of university faculty and students in science, technology, engineering and math, Indiana University social psychologists have found that professors' beliefs about intelligence play a measurable role in the success of all students in STEM, especially underrepresented minorities.




GARCIA HERNÁNDEZ SAWHNEY LLP

The Equitable Protection Principle

	<i>Structural</i>	<i>Cultural</i>	<i>Individual</i>
<i>Our “Why” Compelling Interest</i>			
<i>Race-neutral</i>			
<i>Race-conscious</i>			

The Equitable Protection Principle

	<i>Structural</i>	<i>Cultural</i>	<i>Individual</i>
<i>Our “Why” Compelling Interest</i>			
<i>Race-neutral</i>			
<i>Race-conscious</i>			



What Is Your "Y" ?

"Napa Valley College's Superpower: Knowing Our Y."

Join at
slido.com
#2277



GARCIA HERNÁNDEZ SAWHNEY LLP

School Drive Aids Refugees



Dien, left, receiving the donation from Monica.

KOBE — St. Michael's International School donated a check for 120,565 yen Thursday to Vietnamese refugees presently housed at the Rokko Kaikan here.

The check was handed to Dien Tai Nguyen, a representative of the refugees, by Monica Barraclough, a four-year-old British girl from the school's nursery department, in a presentation ceremony held at St. Michael's chapel from 11.30 a.m.

"Thank you very much," said Dien in English. "Really I have no words to express my thanks for your sincere gift. I am impressed by your consideration to the people of Vietnam who are leading a hard life in Kobe." Monica smiled and made a bow.

The fund was obtained through the school's "Good

Neighbor Week," observed from Nov. 14 to 18. Every day, the 200 students, from kindergarten to advanced classes and English Language School, spared 45 minutes at lunchtime to hold various events to raise the money.

They operated games, sold stationery goods, flowers, coffee, cakes and cookies brought from home, held auctions and made sandwiches. Most of the items were sold for 10 or 20 yen, prices even small children could afford.

The Rokko Kaikan now houses a total of 56 Vietnamese refugees representing 12 households. On Nov. 3 and 15, 30 refugees left the Kaikan for the United States to start a new life.

Dien told the Mainichi Daily News that those remaining need oil, and oil stoves, gloves and clothing for the winter.

47 years later . . .



The unexamined life is not worth living.

The unexamined system is not worth perpetuating.

