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Widening the River: Challenging Unequal Schools in Order to Contest Prop 209

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Attorneys, students, and social science researchers worked together on several lawsuits in California to challenge the lack of equitable access to quality K-12 education. In doing so, they were also contesting Proposition 209. Educational researchers and advocates argued that the lack of equitable access to rigorous high school curriculum, combined with Proposition 209's so called race-neutral policies, adversely impacted underrepresented students of color in California. This paper documents the inequality of access to rigorous high school curricula in California as well as potential legal and policy challenges. Whether direct challenges to Proposition 209 are precluded by litigation challenging the rigor of curriculum and concomitant university admission policies will also be discussed. Legal research and qualitative interviews with attorneys and social scientists involved in the cases provide insight into problems and opportunities for those working on related litigation. A common theme running throughout the interviews is the need for attorneys and education experts to learn how to talk to each other. Several long-term suggestions for how action researchers and attorneys can work together more effectively are provided.

*Widening the River: Challenging Unequal Schools in Order to Contest Prop 209*¹

By Karen Miksch²

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. (Attorney representing African American, Latino, and Filipino American applicants to U.C. Berkeley)³

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-based affirmative action in higher education in the process. 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. State of California* (1999)⁴ the complaint 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. Further, the complaint argued that AP classes had become a *de facto* admission requirement at the University of California. In *Castaneda v. Regents of the University of California* (1999)⁵ the NAACP Legal Defense Fund and other

¹ Paper presented at the “Equal Opportunity in Higher Education: Proposition 209—Past and Future” Symposium sponsored by the Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity. The title refers of course to William Bowen and Derek Bok’s seminal work, *The Shape of the River*. WILLIAM B. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS* (1998).

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³ In person interview conducted in 2003.

⁴ No. BC214156 (L.A. Super. Ct. filed July 27, 1999) (on file with author).

⁵ No. C99-0525 (N.D. Cal. filed Feb. 2, 1999) (consent decree approved June 9, 2003) (on file with author).

organizations represented students who were denied admission to U.C. Berkeley. The African-American, Latino, and Filipino American applicants to UC 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 Berkeley's admission process and whether it overly favored students who had taken AP courses. The social science researchers who worked on the *Daniel* and *Castaneda* cases showed that underrepresented students of color were not provided equal access to college preparatory coursework. The *Castaneda* 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.

A third lawsuit, *Williams v. California* (2000),⁶ was a statewide challenge to the deplorable conditions in California public schools. The lack of textbooks, qualified teachers, and in some classrooms, no teacher at all, were documented by a number of research reports.⁷ The attorneys and researchers argued that children were being denied the opportunity to learn, in violation of their civil rights.⁸ The case settled in 2005 and the agreement is currently being monitored to ensure that all schools in the state have sufficient instructional materials and teachers. Again, like *Daniel* and *Castaneda*, 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.

⁶ *Williams et. al. v. State of California*, S.F. Superior Court (No. 312236).

⁷For a comprehensive analysis of the *Williams*' research, see, Expert Report of Jeannie Oakes, *Education Inadequacy, Equality, and Failed State Policy: A Synthesis of Expert Reports Prepared for Williams v. State of California*, *Williams v. State*, No. 312236 (Cal. Super. Ct., S.F. County, filed May 17, 2000) *reprinted in*, 43 SANTA CLARA L. REV. 1299 (2003).

⁸ First Amended Complaint for Injunctive and Declaratory Relief, No. 312236 (Cal. Super. Ct., S.F. County, filed May 17, 2000) [hereinafter *Williams*' Complaint].

This paper focuses on unequal access to Advanced Placement (AP) classes administered by the College Board. By focusing on AP classes, I do not want to suggest that access to AP 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. There were even classes that had no teacher assigned to teach them. 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 US and viewed by many as a way to ensure that students are prepared for college. In addition, most select colleges and universities assign additional weight to AP courses in the admission process. 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, 90 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.⁹ The University of California and the California State University system follow this policy as well.

This seemingly neutral process in university admissions actually reinforces inequality. Over forty percent of U.S. high schools do not offer AP classes¹⁰ and students in urban and rural communities are the least likely to have access to AP courses. In addition, the availability of college preparatory programs and other advanced course work decreases as the percentage of students of color and low-income students increases. Thus, access to AP is a critical civil rights issue and informs the Proposition 209 debate.

This paper 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

⁹ CollegeBoard.com at <http://apcentral.collegeboard.com/apc/public/colleges/index.html>.

¹⁰ *Id.* at http://apcentral.collegeboard.com/apc/public/exam/exam_questions/150487.html.

distribution of AP in California—both before and after passage of Proposition 209. Admission policies and AP 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 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 *Castaneda*, *Daniel*, and *Williams*' cases will also be analyzed with the ultimate goal of developing more effective ways for attorneys and researchers 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 *Castaneda*, *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.¹¹ Legal Mobilization Research utilizes the case study method, including qualitative interviews, to understand litigants as social actors. My research builds on Legal Mobilization Theory by applying the case study method to the access debate.

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 and a good case study therefore 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 in the paper to describe the unequal distribution of AP in California—both before and after passage of Proposition 209. Admission policies were obtained on-

¹¹ 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 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).

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 *Castaneda*, *Daniel*, and *Williams*' cases.¹²

II. AP in College Admissions

In *Castaneda v. Regents of the University of California*¹³ the NAACP Legal Defense Fund and other nonprofit legal organizations represented students who were denied admission to UC-Berkeley. The *Castaneda* case claimed Berkeley was violating the equal protection clause.¹⁴ The African-American, Latino and Filipino American applicants to UC-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." This case challenged so called neutral definitions of academic merit by directly confronting the use of AP in the University of California admission process.

The plaintiffs 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

¹² 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 more Advanced Placement (AP) classes in California.

¹³ No. C99-0525 (N.D. Cal. filed Feb. 2, 1999) (consent decree approved June 9, 2003) (on file with author).

¹⁴ *Id.* The complaint also alleged that the policy had a disparate impact on underrepresented students of color in violation of Title VI of the Civil Rights Act of 1964. In *Alexander v. Sandoval*, 532 U.S. 275 (2001), decided after the complaint was filed in *Castaneda*, the U.S. Supreme Court determined that there is not a private right of action under Title VI to bring a disparate impact claim. 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 a Tort*, 96 NW. U.L. REV 99, n. 333 (2001); Kevin G. Welner, *Tracking in an Era of Standards: Low-Expectation Classes Meet High-Expectation Laws*, 28 HASTINGS CONST. L. Q. 699, n. 112 (2001).

percent. 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 averages (GPA).

The *Castaneda* case challenged the biases built into the academic criteria in Berkeley's undergraduate admission process. The 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 (For example, a "B" for an AP class was calculated as 4.0, and an "A" was calculated as 5.0). According to the *Castaneda* plaintiffs, this negatively impacted 40 to 50 percent of the high school students in California who went to schools with three or fewer AP classes. Counsel for the *Castaneda* plaintiffs asked Walter Allen, a Professor at UCLA and director of the CHOICES Project, to conduct research on whether there was a discriminatory impact from the use of AP in college admissions. Professor Allen prefers collaborative research, especially when working on a legal challenge, and thus he assembled a team of professors and graduate students to conduct the research. Utilizing the team's research, plaintiffs were able to introduce evidence of inequality of AP 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. The Opportunity Index is thus the number of AP opportunities available per 100 students at a given school.

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. In addition, the AP Opportunity Index increased as the concentration of white students became larger and decreased in schools with a higher concentration of African-American, Filipino, or Latino students.

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 status, race and gender. They argued that stereotype threat 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. 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.

The case settled in June 2003, and 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.

I reviewed the 2006 admission policies at U.C. Berkeley, U.C.L.A., five California State University campuses, the University of Washington, and the University of Michigan to gain insight into how AP impacts access to higher education. I chose U.C. Berkeley and U.C.L.A. because both campuses are in the top five in the nation of institutions receiving AP test scores from applicants. I also investigated policies at other U.C. institutions and the California State University system to form a picture of how public four-year institutions are considering AP course work and examination results in California. Washington State's Proposition I-200¹⁵ outlawing affirmative action has language identical to California's Proposition 209. Thus, I also reviewed the University of Washington's admission procedures. Finally, I compared these admission practices with 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.¹⁶ In addition, Michigan has been the site of intense political debate

¹⁵ Wash. Rev. Code § 49.60.400(1)(2006).

¹⁶ Grutter v. Bollinger, 539 U.S. 306 (2003)(upholding the 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).

regarding a November 2006 ballot initiative that would preclude race-conscious admission policies.¹⁷

U.C. Berkeley: According the Admissions Office, AP courses are considered to be more rigorous and challenging than regular university preparatory courses. Students who enroll in AP courses (when available) and perform well in them tend to be regarded as more competitive. 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.¹⁸ 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 *Castaneda*, Berkeley instituted a new "unitary" admission policy.¹⁹ No longer are half of the students admitted based on academic factors and the other half given a full file review. 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. So for example, if an applicant goes to a high school with 3 AP classes, she is compared to other applicants in her school—not with an applicant from another high school with 19 AP opportunities. UCLA recently announced that it plans to adopt U.C. Berkeley's unitary policy in large part to rectify the drastic reduction in African American and Latino undergraduates admitted to the University since the passage of Proposition 209.²⁰

¹⁷ Proposed Proposition 2, the "Michigan Civil Rights Initiative," has similar language to Proposition 209 and, like the California initiative, was introduced by Ward Connerly.

¹⁸ In fall 2006, the average un-weighted GPA for incoming freshman at U.C. Berkeley was 3.83; the average weighted GPA was 4.26. U.C. Berkeley Admission Website, at <http://ls-advise.berkeley.edu/faq/ap.html>.

¹⁹ U.C. Berkeley Admission Website. Additional information was obtained via a telephone interview in September 2006. For a discussion of the unitary process, see, Alan E. Schoenfeld, *Challenging the Bounds of Education Litigation: Castaneda v. Regents and Daniel v. California*, 10 Mich. J. Race & L. 195, 213-214.

²⁰ Rob Capriccioso, *UCLA Revamps Admissions*, INSIDE HIGHER ED (Sept. 8, 2006), at <http://insidehighered.com/news/2006/09/08/ucla>.

University of California, at Los Angeles (U.C.L.A.) The admission process at U.C.L.A. 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 and the GPA is weighted to give additional points for AP and other college preparatory course work.²¹ Similar to 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."²² Unlike Berkeley, however, UCLA caps AP and other college level courses at a maximum of eight semesters.

California State University 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 & 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 U.C.L.A., 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.²³

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 UCLA in 2006, for

²¹ The average weighted GPA in the 2006 freshman class was 4.25 and the average number of college level course work was 19 classes. UCLA Admissions Website, at http://www.admissions.ucla.edu/Prospect/AP_Credit.htm.

²² *Id.* Additional information was also obtained from telephone interviews conducted in September 2006 with admission staff.

²³ This information is based on telephone interviews with admission offices at 5 selected California State University campuses conducted in September 2006.

example, had taken 19 AP classes.²⁴

University of Washington The University “encourages and applauds students” who have taken AP coursework as part of their high school curriculum. Although the University of Washington recognizes that AP classes are “challenging and demanding,” and “provide excellent preparation for university study,” it does *not* weight students’ GPA. 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.²⁵ 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. AP credits were granted to over 3,000 incoming freshman in 2006.²⁶

Advanced Placement classes continue to be valued in the admission process by four-year institutions in California, and nationally. As Clifford Adelman documented in *Answers in the Toolbox*,²⁷ college preparatory classes *are* a good predictor of college success, especially for underrepresented students of color. His most recent study, *The Toolbox Revisited*,²⁸ underscored the importance of a rigorous curriculum. Thus, it is not

²⁴ UCLA Admissions Website, at <http://www.admissions.ucla.edu/Prospect/APCredit.htm>.

²⁵ University of Michigan Admission Website, at <http://www.admissions.umich.edu/academics/apguidelines.html>.

²⁶ *Id.* Additional information was obtained via telephone interviews with admission office staff during the month of September 2006.

²⁷ Clifford Adelman, *Answers in the Toolbox: Academic Intensity, Attendance Patterns, and Bachelor’s Degree Attainment*. U.S. Department of Education Publication (1999).

²⁸ Clifford Adelman, *The Toolbox Revisited: Paths to Degree Completion for High School Through College*. U.S. Department of Education Publication (2006). Also available at, <http://www.ed.gov/rschstat/research/pubs/toolboxrevisit/index.html>.

surprising that admission officers look at the rigor of an applicant's course work. The challenging content of a college preparatory course not only prepares a student for college work, students also get better information about how to apply successfully for college admission. *According to Betraying the College Dream*, AP and honors students receive 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.²⁹ In addition, AP teachers have been found to be better teachers than those who do not teach AP classes. That is, AP teachers are better prepared academically, more enthusiastic about teaching, and have higher expectations for their students.³⁰ 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 denied to students without access to college preparatory courses.

The problem, of course, lies with inequitable access to college preparatory course work. Not only do students lose out on free college credits, the increasing selective nature of state flagship institutions means that students who lack access to AP are not admitted in the first place.

III. Unequal Access to AP in High School

A second case was filed in California in 1999 challenging the lack of AP classes directly. In the case *Daniel v. State of 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. 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

²⁹ Venezia, *Betraying the College Dream*, 40.

³⁰ Santoli, *Is there an AP Advantage?* 25.

California.

The ACLU attorneys responsible for filing the *Daniel* case, Rocio Cordoba and Mark Rosenbaum, met with Professor Jeannie 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 and class and documented the low number of AP courses in low-income, predominantly Latino and African-American public high schools by geographic area in the state of California. 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. 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. 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. The case did not go to trial and was dismissed in 2005.

Legislation promoting increased access to AP classes was introduced in the California legislature. 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 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. The case recognized a link between race, place and class 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. States with unequal distribution of AP classes could also be challenged especially if their constitutions, like California, contain provisions 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.³¹

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.³² Almost every civil rights organization in California was involved in bringing the case.

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.³³ 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. Many were AP classes in name only. In some cases, classes were offered and students were enrolled, but they were forced to endure a series of substitutes rather than qualified teachers. In some of the classrooms, no teacher was provided and students were left on their own with no teacher at all. Even in cases where teachers were assigned to teach AP courses, they

³¹ *Williams* Complaint, at ____.

³² *Id.*

³³ 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, 174-175 (2004)(citing *Williams v. California* as an example of the current Opportunity to Learn policy).

often lacked any coursework in the subject matter. Thus, although AP classes were offered, students continued to lack meaningful access to college preparatory work.

The attorneys, working with researchers at U.C.L.A., provided a number of descriptive charts in the *Daniel* case documenting unequal access to college preparatory courses in California.³⁴ I decided to update the charts and statistics used in the *Daniel* complaint with the most recent data available on the number of AP classes available. I wanted to describe AP access in California both prior to Proposition 209 and the subsequent lawsuits, and the current status of AP opportunity in California.

Chart 1. Update of *Daniel* Complaint with 2005—2006 Data

Name of High School	No. AP Subjects in <i>Daniel</i> Complaint (DC) ³⁵ v. 2005 ³⁶	AP Science & Math classes offered	Total No. AP Classes Offered	Percent African American & Latino students
Inglewood HS	DC: 4	0	4	97.4
	2005: 7	8	19	
Arvin HS	DC: 2	1	2	92.8
	2005: 3	4 ³⁷	6	
Beverly Hills HS	DC: 14	5	32	8.8
	2005: 40	14	40	
Arcadia HS	DC: 18	6	45	8.4
	2005: 83	42	83	

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 number of AP classes in predominately white ethnic public high schools. As Chart number 1 illustrates, although there have been gains in the number of

³⁴ The *Daniel* Complaint includes 4 charts that describe the availability of AP in low-income, high African American and Latino districts versus high-income, predominately white ethnic public high schools.

³⁵ *Daniel* Complaint, at 5.

³⁶ The data for the 2005—2006 school year was obtained from the School Accountability Report Card (SARC) and California State Department of Education Data Quest *at*, <http://data1.cde.ca.gov/dataquest/>.

³⁷ Arvin H.S. offered zero AP Mathematics classes and four AP Science classes.

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 students’ high school curriculum is strongly associated with postsecondary GPA and rates of persistence in college.³⁸ The study *Answers in the Toolbox*,³⁹ for example, proved that African American and Latino students’ success in AP classes was 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.⁴⁰ All of the research agrees: students are more likely to graduate from college if they have taken rigorous classes in high school.⁴¹

Math, according to several studies, is the cornerstone of a rigorous high school curriculum and students who take AP calculus are more likely to go to a 4-year institution.⁴² 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.”⁴³

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, predominately 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 opportunity for AP science and mathematic course work than they were in 1997.⁴⁴

Chart #2: Low Number of AP Courses in Low Income, Predominantly Latino and African-American Public High Schools 1997--2005

³⁸ Bridging the Gap, 9.

³⁹ See, Adelman, *infra* note ____.

⁴⁰ *Id.*

⁴¹ Adelman, Institute for Higher Education Policy, Santoni.

⁴² Choy, *Betraying the Dream*.

⁴³ Adelman, viii.

⁴⁴ I use 1997 as a baseline because it is the last year affirmative action was used in UC undergraduate admissions and because it is the first year comprehensive AP data is available.

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High School (District)	No. of AP Classes Offered 1997 ⁴⁵	AP Science?	No. of AP Classes Offered 2005	AP Science?	Opportunity Index ⁴⁶
Inglewood HS (IUSD)	4	No	19	Yes	1997: 4.48 2005: 27.8
Morningside HS (IUSD)	5	No	10	No	1997: 10.13 2005: 18.95
Locke HS (LAUSD)	5	Yes	17	Yes	1997: 7.01 2005: 10.37
Dorsey HS (LAUSD)	7	Yes	12	Yes	1997: 8.49 2005: 13.91
Compton HS (CUSD)	5	No	10	No	1997: 6.88 2005: 14.40
Hiram Johnson HS (Sac. 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 (DUSD)	5	Yes	11	Yes	1997: 7.87 2005: 25.10

Chart Number 2 also provides the AP Opportunity Index for each high school. The *Castaneda* plaintiffs calculated the Opportunity Index for each high school in the state of 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

⁴⁵ School Accountability Report Card (SARC) and California State Department of Education Data Quest, at <http://data1.cde.ca.gov/dataquest/>.

⁴⁶ 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.

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.

Chart #2: High Number of AP Courses Offered in Wealthy, Predominantly White Public High Schools

High School (District)	No. of AP Classes Offered 1997 ⁴⁷	AP Science?	No. of AP Classes Offered 2005	AP Science?	Opportunity Index 1997 v. 2005
Beverly Hills HS (BHUSD)	32	Yes	40	Yes	1997: 35.88 2005: 46.14
Arcadia HS (AUSD)	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 low-income schools in Chart 2, with high-income schools with a low-percentage of African American and Latino students, we see that once again these schools are losing ground. Also note that none of the low-income predominantly African

⁴⁷ School Accountability Report Card (SARC) and California State Department of Education Data Quest, at <http://data1.cde.ca.gov/dataquest/>.

American and Latino high schools currently has 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 –2004. In most of the high schools there is an increasing number of AP classes. This is heartening; especially since the AP Challenge Grant funding is no longer available to assist schools to provide more AP courses.

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 California 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.

For attorneys as well, the impetus for the *Castaneda* and *Daniel* cases was discussed in terms of the devastating impact 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 so called “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 Lawrence III⁴⁸ specifically points to *Castaneda* and *Daniel* as exemplary ways to challenge the notion of meritocracy that under girds attacks on affirmative action. 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.

Researchers and attorneys 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. 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.⁴⁹ The school within a school—where poor African American, Latino, and

⁴⁸ Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense to Affirmative Action*, 101 Colum. L. R. 928, 973 (2001). See also, Alison Barnes, *The Conundrum of Segregations Ending: The Education Choices*, 89 MARQ. L. REV. 33, 45-46 (2005)(citing to the *Williams’* case as an exemplary example of using litigation as a catalyst to bring about social change).

⁴⁹ Jeannie Oakes, *KEEPING TRACK: HOW SCHOOLS STRUCTURE INEQUALITY* (1995); Kevin Welner and Jeannie Oakes, *Ability Grouping: The New Susceptibility of School Tracking Systems to Legal Challenges*, 66 HARVARD EDUCATIONAL REVIEW 451 (1996).

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.⁵⁰

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. All of the studies concur: African American and Mexican American students do not have equitable access to rigorous high school classes.⁵¹

The National Research Council determined that access to advanced study in high school is uneven, especially in the sciences.⁵² 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. Even where AP math and science courses are offered, students from underrepresented populations are disproportionately tracked out of college preparatory classes. The researchers involved in *Daniel, Castaneda*, and *Williams* all concur: just providing more AP 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 AP. Many of the researchers encouraged the attorneys to raise tracking

⁵⁰ Karin Chenoweth, *The College Board Decries Participation Gap*, BLACK ISSUES IN HIGHER EDUCATION, Sept. 17, 1998, 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.

⁵¹ See, Education Trust, ACCESS TO EXCELLENCE; EDUCATION TRUST, EDUCATION WATCH: KEY EDUCATION FACTS AND FIGURES (2004); Solorzano, *A Critical Race Analysis of AP*.

⁵² National Research Council, *Learning and understanding: Improving advanced study of mathematics and science in U.S. high schools* (Washington, DC: National Academy Press, 2002).

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.⁵³

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 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.⁵⁴ 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. Urban students are also more likely to attend community colleges and less likely to get a college degree than suburban students. According to the study, African American and Latino students continue to face barriers to postsecondary access, including lack of information, lack of a rigorous high school curriculum, and access to qualified teachers. The *Williams*' case was cited by many of the researchers and attorneys as attacking systemic barriers to access.⁵⁵ The current lawsuit challenging the disparate impact of high-stakes graduation tests⁵⁶ 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?

⁵³ For an excellent discussion of how to legally attack tracking, *see*, Kevin G. Welner, *Tracking in an Era of Standards: Low-Expectation Classes Meet High Expectation Laws*, 28 HASTINGS CONST. L. Q. 699 (2001).

⁵⁴ Joseph B. Berger, Suzanne M. Smith, and Stephen P. Coelen, RACE AND THE METROPOLITAN ORIGINS OF POSTSECONDARY ACCESS TO FOUR YEAR COLLEGES: THE CASE OF GREATER BOSTON (The Civil Rights Project, 2004).

⁵⁵ 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).

⁵⁶ *Valenzuela v. O'Connell*, No. CPF-06-506050 (S.F. Super. Ct.) (on file with author).

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. I chose cases that were about increasing access to higher education for 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.⁵⁷ 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.⁵⁸ Everyone mentioned the need to “learn how to talk to each other.” Attorneys feel they speak a different language than 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

⁵⁷ For a more detailed discussion of the *Daniel* and *Castaneda* cases, and the results of the interviews regarding academic merit, 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 (2005).

⁵⁸ This same theme was echoed in the interviews I conducted with attorneys and researchers involved in defending the use of race-based affirmative action at the University of Michigan.

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 Court 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 than when writing for peers. Often, theoretical underpinnings and methodology, issues that are raised in the beginning of a social science study, were moved to 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 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 *Castaneda*, *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 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.

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.”⁵⁹ 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 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.

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 research as continually putting the information out there [to inform education policy].

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

⁵⁹ HANDBOOK OF ACTION RESEARCH: PARTICIPATIVE INQUIRY AND PRACTICE 1 (Peter Reason & Hilary Bradbury eds., 2001).

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.

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.

Several practical suggestions emerged from the interviews:

- **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.

- **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*, *Castaneda*, 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 time-lines 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.

- **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.

- **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.

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.⁶⁰

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 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.” In order to realize these dreams, hopes and desires multiple legal strategies and policy initiatives are imperative.

⁶⁰ *Williams* Complaint.

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

Opportunity Index 2005-2006: 18.95

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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
Opportunity Index 2005-2006: 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
Opportunity Index 2005-2006: 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
		Opportunity Index 2005-2006: 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
		Opportunity Index 2005-2006: 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

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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
		Opportunity Index 2005-2006: 25.10

Source: School Accountability Report Card (SARC) and California State Department of Education Data Quest, downloaded August 2006.
(Available on line at <http://data1.cde.ca.gov/dataquest/>)

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
Opportunity Index 2005-2006: 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

Opportunity Index 2005-2006: 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, downloaded August 2006.
(Available on line at <http://data1.cde.ca.gov/dataquest/>)