

***Affirming Equity. Ensuring Inclusion. Empowering Action.***  
**An Agenda for a post-Affirmative Action World Based on the Upcoming Supreme Court of the  
United States (SCOTUS)**

Campaign for College Opportunity  
Summary of Activities & Action  
As of May 25, 2023

***Background***

Over the past forty years, race-based affirmative action has helped boost the admissions chances for many marginalized students. On October 31, 2022, the U.S. Supreme Court heard two major cases concerning race-based affirmative action at Harvard and the University of North Carolina. Given the court’s composition, it seems very likely that the justices will use the cases to ban any form of affirmative action in college admissions in the United States. The long history of racial discrimination means that race-blind (or race-neutral) admissions would allow historic discrimination — embodied in racial bias in K-12 education, income inequality, and segregation — to carry on, especially in our higher education institutions.

While affirmative action helped to diversify California’s workforce and institutions, with the passage of Proposition 209 twenty-five years ago, California became one of nine states that have banned race-based affirmative action. Eliminating race as a factor in admissions had serious detrimental effects in access to higher education for students from minoritized groups. According to a report by [The Civil Rights Project](#), UCLA admission rates for underrepresented minorities plummeted from 52.4% in 1995 to 24% in 1998. As a result, the percentage of underrepresented minorities fell by more than half: from 30.1% of the entering class in 1995 to 13.6% in 2012.

The decline in minority representation at the University of California came even as the minority population in California increased. At UCLA, for example, the proportion of Latino first-year students declined from 23% in 1995 to 17% in 2011, even though the proportion of Latino college-aged people in the state increased from 41% to 49% during that period. The ratio of Black freshmen at UCLA declined from 8% in 1995 to 3% in 2011, even though the proportion of Black college-aged persons in California increased to 9% during that same period. Undoubtedly, achieving diversity is important to providing rich and culturally relevant educational experiences and addressing the legacies of racial injustice.

***Action***

While the ban on affirmative action in California’s public colleges and universities has seriously affected marginalized students and access to higher education, our state has developed paths for improving racial equity at our colleges and universities. With a continued commitment to address inequitable access to and through college, we have been active in challenging practices that have a disparate impact on Latinx, Black, and other minoritized students. This includes championing historic reforms such as: dropping SAT/ACT requirements for university admissions; ceasing placement practices at community colleges that overwhelmingly placed students in remedial courses; improving transfer pathways; funding community colleges with additional resources based on low-income students served and improvements in outcomes on completion; and supporting university goals to improve outcomes and close gaps in completion by race/ethnicity. These are just a few of the ways we can address persistent equity gaps in college access and completion.

As the national fate of affirmative action looms, the Campaign for College Opportunity's leadership expertise in higher education can guide the nation's colleges and universities (including California's independent colleges), who have been able to use affirmative action in their admissions practices. *We seek to promote evidence-based solutions to address inequities in college preparation, admissions, placement practices, and transfer to ensure minoritized students have a real equitable opportunity to go to college and succeed, regardless of whether the US Supreme Court overturns affirmative action.*

Clarity regarding the impact and scope of the SCOTUS decision will be necessary, given the powerful chilling effect that Prop 209 had in California. Beyond what Prop 209 legally achieved, there was an overreaction to the law and an overly strict and conservative response and interpretation by legal counsels at universities and beyond regarding what was permitted and what was not. It took more than a decade to push back against those extreme interpretations. *A lesson from California to the rest of the nation should be to provide greater clarity about what is legally permissible, identify what other tools to expand equity and diversity in higher education are available, and inform the US Department of Education in anticipation of the legal guidance they will provide for colleges and universities on this issue.*

Since 2004, the Campaign has established itself as a trusted and well-recognized organization in California. We have proven that coalition building, public information campaigns, and pushing forward initiatives and practices that are student-centered are our core strengths. While we wait for the decision of the Supreme Court, there is a lot we can do to ensure leaders and institutions are prepared to proactively champion diversity, racial/ethnic equity, and inclusion in higher education. A listing of current activities can be found below, followed by details on past activities and our extensive list of expert advisors that have informed this work.

### *Current Activities*

#### **Developing a Strong Communications Campaign in Response to the SCOTUS decision and to Promote a Proactive Strategy About Equitable Practices in Higher Education – Winter 2022 – Fall 2023**

Our expertise in elevating student voices and partnering with other organizations has positioned us as a trusted ally to inform policymakers and higher education leaders of best practices to advance equity in college preparation, admission, enrollment, retention, and completion to ensure minoritized students have a real equitable opportunity to go to college and succeed. Regardless of whether SCOTUS overturns affirmative action, it is crucial to have in place a highly visible, identifiable communications campaign to coordinate strong messaging and framing in response to the decision.

A decision to overturn affirmative action can reverse racial equity efforts across the country, including in California. To address this, we will use our expertise in communicating and educating policymakers, educational leaders, and the public Fall 2022 – Fall 2023 in the following ways:

- The Raben Group will support messaging and engagement with media, higher education leaders, and policymakers – Winter 2022 – Summer 2023;
- Prepare public messages through a proactive lens to encourage discussions on the value of diversity and racial/ethnic equity and the discrimination that continues to lead to racial/ethnic inequity in higher education – Winter 2022 – Fall 2023;

- Host town halls and presentations to educate state and college leaders, developing a cadre of such leaders that can help inform others – Spring – Summer 2023;
- Engage and educate the philanthropic community to ensure that SCOTUS’s decision does not erroneously prevent them from investing and championing equity opportunities – Fall 2022 – Fall 2023;
- Participate in relevant national coalitions to align communications and work – Fall 2022- Fall 2023;
- Host and participate in media briefings with experts to ensure appropriate coverage of issues and share our priorities around equity in higher education – Fall 2022 – Fall 2023;
- Host a press briefing before the decision of the U.S. Supreme Court (October 24, 2022) and after the hearing (Spring 2023) to help educate and inform the media about the significance and the work that must be done to move forward post-decision;
- Recruit and prepare chief leaders across the state that can speak in support of racial equity in higher education through editorials, media interviews, and social media – Fall 2022 – Fall 2023;
- Engage national organizations and advocacy groups to coordinate uniform messaging – Fall 2022 – Fall 2023.

**Produce Expert Guided Toolkit(s) and Practice Briefs on Developing and Implementing Equitable Practices in Higher Education Post-Affirmative Action** – (March 2023 – Fall 2023)

Banning affirmative action in California had devastating effects on minority populations. California has made progress toward strengthening racial equity efforts, but there is more to be done to ensure true equity is reached. We must start thinking differently about how to counteract the inevitable setbacks in efforts toward racial justice.

Beginning in March 2023 – and through November 2023, we are commissioning, writing, and editing issue briefs and resources on how institutions can protect students from discriminatory policies and ensure they advance equity-minded policies and practices.

In addition, a priority legal brief and understanding of the SCOTUS decision and interpretations that provide what is possible to do and what is not will be an early part of this series of papers and resources.

- **Legal Guidance and Interpretation of SCOTUS Decision:** *Art Coleman, Managing Partner, and co-founder of Education Counsel LLC* will author analysis of the SCOTUS decision including what it means, what is still legally possible to advance solutions that promote greater equity in college admissions designed to guide stakeholders in the wake of the Court decisions. Broadly, this brief will address themes related to re-examining equity barriers; re-thinking admission policy design; and exhausting full range of legally neutral strategies. Education Counsel’s [2019 Playbook](#) will serve as a principal source for the framing of legally neutral strategies, with substantive expansion as appropriate.

We will be highlighting the following key equity in higher education issues, with priority given to the first set listed here to be released by July 2023:

- **Equitable Admission Practices in Higher Education (including analysis of Holistic Admissions, Test Optional, Early Decision, Legacy Admits, Recruitment Practices, Top Percent Admission Plans, Eligibility in the Local Context, and Standardized Testing.)**

Several papers exploring solutions that create more equitable admissions processes will be developed by a series of experts.

- *One paper by Michael Bastedo* will focus on holistic admissions process that considers, among several indicators, demonstrated leadership qualities, awards and honors, work experience, involvement in community service, extracurricular activities, and other exceptional circumstances, such as family status, socioeconomic status, and the applicant's race.
  - *A second paper by Dr. Julie Park* will analyze standardized testing and how standardized tests and test-optional policies can provide more or less equitable opportunity to students.
  - *A third paper by Stella Flores* will discuss admissions criteria that guarantee college admission for students based on their class rank (also known as top % plans). Some versions of these plans operate on statewide bases, while others reserve seats for students who are among the top graduates in their local area.
  - *The Institute for Higher Education Policy (IHEP)* produced a report critical of Early Decision, Recruitment Practices, Legacy Admits and Demonstrated Interest practices at colleges that diminish opportunity and prevent more equitable access to higher education. They will update and provide a brief for this series alongside the Campaign.
  - *A paper by Taylor Odle* will discuss Direct Admissions, the practice of automatically enrolling graduating high school students into the public college or universities for which they are qualified, with transcripts and other relevant data transmitted directly to the application system. In states where the practice has been implemented, initial results show gains in enrollment college enrollment for Black, Latinx, and other underrepresented students.
  - Finally, *Just Equations* has agreed to *produce an analysis* on how math course requirements can be used/abused in ways that either expand opportunity or diminish it.
- **Equitable Preparation for College (Analyzing indicators that schools can use to measure and increase college opportunity across their student populations including: A-G course access; FAFSA completion rates; Dual Enrollment strategies; Math course offerings and requirements as an opportunity or hurdle).**
    - *Just Equations* is preparing a piece that will highlight how math course offerings for high school students limit college preparation and math admissions requirements limit access with inequitable impacts.
    - *Chris Edley* will author a piece on opportunity indicators that expand college opportunities or restrict them.
    - *Ed Trust West* will prepare a brief on FAFSA completion rates and opportunities to expand financial aid access.

## Second half release of the following papers:

- **Strategies for Ensuring a Welcoming Campus Environment:**  
*Dr. Julie Park* will put forward practices that ensure students have a sense of belonging on campus and the tools needed to ensure campuses are meeting their needs.
- **Inclusive Hiring of Faculty, Staff and College Leaders:**  
*Dr. Luke Wood and Dr. Frank Harris* will provide their expertise with solutions like cluster hiring and other practices that work to ensure an inclusive hiring process. This paper will focus on providing clear guidance and solutions for how campus leaders can recruit, hire, and retain diverse staff that are reflective of their students and have the cultural and technical expertise to serve today's diverse student body.
- **Financial Aid (Need Based Aid, Cal Grant Equity Framework, Dream Act):**  
*The Institute for College Access and Success (TICAS)* will work with the Campaign to produce a paper focused on the important role that financial aid can play in expanding opportunity to college and truly leveling the playing field. With a focus on need-based aid policies and how these policies advance a more equitable opportunity for students of diverse backgrounds to attend college. *The Campaign* will also elevate the state's primary form of student financial aid (*Cal Grant program*) and highlight the importance of this entitlement program. The section will highlight ways in which the new Cal Grant Equity Framework seeks to distribute aid to students based on need rather than merit, reduce the limitations on who qualifies for Cal Grant awards, and direct more state financial aid to Black and Latinx students who were disproportionately disqualified by the program's previous requirements.
- **Strong Transfer Pathways (ADT):**  
*John Fink and colleagues at the Community College Research Center at Teachers College, Columbia University (CCRC)* with co-authorship support *Vikash Reddy at the Campaign* to highlight California-specific reforms as a potential model. Black, Latinx, and underrepresented Asian American, Native Hawaiian, and Pacific Islander (AANHPI) students disproportionately start their pathway to a four-year degree at a community college, thus transfer policy disproportionately affects students of color nationwide. The research team at CCRC, led by John Fink, will draw on the Center's own original analyses of transfer pathways, as well as their syntheses of research beyond their own work.

Additionally, the Campaign's experience in transforming transfer in California, which boasts the most extensive state and community college system in the nation, uniquely qualifies us to support transfer reform efforts at the federal level. California's Associate Degree for Transfer (ADT), which was championed by the Campaign, and common general education lower-division pathways can serve as a potential model for federal action to improve transfer in equitable ways across the country.

- **Expanding Capacity:**  
*Vikash Reddy and David Drummer from the Campaign* will be the lead author on this brief. Unfortunately, students face an increasingly competitive admission environment due to institutions' rising number of applications and capacity issues. Expanding access to higher education institutions requires increasing the capacity of our campuses. When colleges and

universities receive more applications than seats available from qualified students for admissions, this almost always comes at the expense of Black, Latinx, and underrepresented AANHPI students.

This analysis will build on the Campaign’s work detailing the impact of increasing state investments in higher education in terms of degree attainment, personal income, and state revenues. The brief will model the impact on enrollment, degree attainment, and personal income that will result from different levels of enrollment increases, demonstrating the ways in which expanding capacity, in combination with other policies contained in this series, can have a dramatic impact on degree attainment for Black, Latinx, and underrepresented AANHPI communities.

- **Placement for Success:** *Vikash Reddy from the Campaign* will prepare a brief that highlights the importance of equitable placement practices for students entering college and university. In 2017, the Campaign successfully championed game-changing policy reform requiring community colleges to use high school performance in placement practices instead of relying on standardized testing to maximize a student’s likelihood of success by providing access to college-level math and English courses and eliminating remedial course offerings. This policy has been called the most critical community college civil rights lever in decades and has already proved transformative for thousands of students. Research shows that in the 2019-20 school year, student completion increased substantially for every racial/ethnic group examined. Though equity gaps remain, Black and Latinx students saw the most significant gains from placement reforms.
- **Institutional Funding Strategies to Improve Outcomes for underserved students:** *Complete College America* is working with us to prepare a paper on how colleges can use their budgets to strengthen equity on campus and better serve students. In addition, the Campaign will speak to new funding mechanism in California, established in 2018, the Student Success Funding Formula moves beyond providing funding to colleges only for student enrollment but also for improved student outcomes and closing equity gaps.
- **Ensuring Strong Disaggregated Data and Analysis:** *Robert Teranishi, author of Why Measuring Race: Why Disaggregating Data Matters for Addressing Educational Inequality*, will author this brief. Disaggregated data plays a critical role in helping policymakers and institutional leaders understand how effective their proposed policies are in meeting the needs of students. In order to assess whether policies are supporting equity or standing in its way, we must be collecting, reporting, and analyzing disaggregated data. This brief will highlight ways in which current data collection and reporting practices are inadequate, and how that hurts Black, Latinx, and underrepresented AANHPI students. Native Hawaiian and Pacific Islander students, for example, are among the most likely students to identify as “two or more races,” meaning many—if not most—are not counted towards institutions’ status as Asian American, Native American, and Pacific Islander Serving Institutions. The brief will highlight reforms needed to the ways in which systems capture, analyze, and share data, with examples of best practices and innovations from around the country.

**Engage an Expert Advisory Group to Inform Our Work and Develop Strategies, while Convening Coalition Partners in California and Nationally – Fall 2022 – Fall 2023**

Leaders and practitioners across the nation have long advanced equity-minded agendas that have contributed to ensuring minority students have an equal opportunity to access and earn a post-secondary degree. Our Expert Advisory Group will help us think strategically on critical next steps as we work with our communications firm, and expert researchers/practitioners to inform policy and practice briefs, alongside toolkits that can contribute to uplifting practices that can expand equity and inclusion in college preparation, college admission, and college completion that do not violate affirmative action. In addition, we will engage coalition partners in California and Nationally who are interested in supporting and expanding work towards more equity in higher education. This work will focus on the activities below:

- Pre-SCOTUS-decision: Coalition uplifts the value of affirmative action while highlighting how it was one of many solutions to racial inequity. Continue to elevate discrimination faced by students of color and challenge the myth of meritocracy. Coalition engages in developing policy proposals for California to improve racial equity.
- Immediately after SCOTUS decision: Coalition launches rapid response campaign which can include organizational, state, and national leader statements, opinion editorial, and media blitz.
- Post-SCOTUS-decision: Coalition disseminates information on how to continue addressing racial equity work, including hosting convenings, webinars, conferences etc. within their networks to expand awareness of equitable practices and bring attention to the series of papers we are releasing.
- Our Expert Advisory Group will support developing and/or reviewing research briefs on best practices in racial equity in higher education (described above), and alongside a broader coalition support dissemination and identify opportunities for broader education awareness among key stakeholders at college campuses and among policymakers.

A summary of completed activities and listing of advisors who have informed this project are below:

***Completed Activities***

- **Hosted three convenings and additional one-on-one sessions with experts to inform the development of our response and strategy** (June 2022 – September 2022)

Experts consulted:

- Estela Bensimon (retired Professor of Higher Education, USC, and Campaign Board member)
- Janelle Wong (Professor of American Studies and Asian American Studies, University of Maryland)
- Julie Park (Associate Professor, Student Affairs, College of Education)
- Michal Kurlaender (Professor of Education, UC Davis)
- Pamela Burdman (Executive Director, Just Equations)
- Saul Geiser (Senior Associate, UC Berkeley Center for Studies in Higher Education)
- Colleen Moore (Principal, Colleen Moore Consulting)
- Frank Harris, III (Professor Administration, Rehabilitation, and Postsecondary Education, San Diego State University)
- Stella Flores (Associate Professor of Educational Leadership and Policy, UT Austin)

- Sonya Christian (Chancellor, Kern Community College District and Campaign Board member)
  - Maria Anguiano (Regent, UC Board of Regents, and Campaign Board Member)
  - Thomas A Saenz (President and General Counsel, MALDEF)
  - Annie Lee (Director of Policy, Chinese for Affirmative Action)
  - Vincent Pan (Co-Executive Director, Chinese for Affirmative Action, and Campaign for College Opportunity Board member)
  - Sally Chen (Education Equity Program Manager, Chinese for Affirmative Action)
  - Martha Snyder (Managing Director, Postsecondary Education Transformation, HCM Strategies)
  - Kristen Soares (President, Association of Independent California Colleges, and Universities)
  - Kathy Booth (Project Director, Educational Data and Policy, WestEd)
  - Denise Castro (Policy Analyst, The Education Trust – West)
  - Jay Rosner (Executive Director, The Princeton Review Foundation)
  - Charles Ansell (Vice President for Research, Policy, and Advocacy, Complete College America)
  - Orville Jackson (Vice President Data Strategy, GreatSchools)
  - Genevieve Bonadies Torres (Counsel for student amici at Harvard and intervenors at UNC Chapel Hill, Lawyer’s Committee for Civil Rights)
  - Elizabeth Barnett (Senior Research Scholar at Teachers College CCRC, Columbia University)
  - Elisha Smith Arrillaga (Managing Director, Charles A. Dana Center, UT Austin)
  - Zach Bleemer (Research Associate, Center for Studies in Higher Education, UC Berkeley)
  - Christopher Nellum (Executive Director, The Education Trust- West)
  - Sameer Gadkaree (President/ CEO of The Institute for College Access & Success)
  - Jesse Rothstein (Professor of Economics and Public Policy & California Policy Lab Faculty Director, UC Berkeley)
  - Julie Renee Posselt (Associate Professor of Higher Education, USC)
- **Hosted a press briefing with journalists** (October 24, 2022).  
Media representatives in attendance included:
    - Joe Bowers, Berkeley Independent
    - Maya Pottiger, Local Media Association/Washington Post
    - Alia Wong, USA Today
    - Blake Jones, Politico
    - Suzanne Potter, Public News Service
    - Katherine Picazo, NBC Los Angeles/ Telemundo/ Univision
    - Teresa Watanabe, LA Times
    - Olivia Sanchez, The Hechinger Report
    - Emil Guillermo, Freelance/ NBC News
    - Daniela Rodriguez, CSAC
    - Emma Gallegos, Ed Source
    - Keith Mizuguchi, KQED
    - Lauren Camera, US News

*EdSource* reported on our press briefing in the article, [Supreme Court’s decision on affirmative action in admissions could affect California private colleges](#) on October 25, 2022.



- **Hosted a briefing for the California Post-Secondary Funders Collaborative** (October 2022). Attendees included program officers from: the Carnegie Foundation, College Futures Foundation, ECMC Foundation, Gates Foundation, Haas Jr. Fund, Kresge Foundation, Lumina Foundation, Sobrato Philanthropies, Stupski Foundation, and the Teagle Foundation.
- **Formed an Expert Advisory Group to Inform and Guide our Work Moving Forward** (November 2022):
  - Julie Park, Associate Professor, College of Education at University of Maryland
  - Lisa Holder, President & CEO, Equal Justice Society
  - Maria Blanco, retired Executive Director, University of California's Immigrant Legal Services Center
  - Sally Chen, Education Equity Program Manager, Chinese for Affirmative Action
  - Sbeydeh Viveros-Walton, Director of Higher Education, Public Advocates
  - Stella Flores, Associate Professor, Department of Educational Leadership and Policy
  - Gary Orfield, Co-Director, The Civil Rights Project at UCLA
  - Saul Geiser, Senior Associate, Center for Studies in Higher Education at UC Berkeley
  - Sylvia Hurtado, Professor of Education, UCLA School of Education and Information Studies
  - Jay Rosner, Executive Director, Princeton Review Foundation
  - Chris Nellum, Executive Director, Ed Trust-West
  - Dominique Baker, Associate Professor, Education Policy and Leadership, SMU
  - Genevieve Bonadies Torres, Lawyers Committee for Civil Rights
  - Thomas A. Saenz, President & General Counsel, Mexican American Legal Defense and Educational Fund (MALDEF)
  - Vincent Pan, Co-Director, Chinese for Affirmative Action
  - Estela Bensimon, retired Director, Center for Urban Education at USC
  - Luke Wood, Vice President of Student Affairs & Campus Diversity, San Diego State University
  - Michael Turnage Young, Senior Counsel, NAACP Legal Defense and Educational Fund
- **Hosted our Annual Event with Assistant Secretary for Postsecondary Education at the US Department of Education, Dr. Nasser Paydar entitled *illuminating the Way Forward: Equal Opportunity in College Access and Success*** on December 14, 2022. The event included a panel of experts to discuss the case before SCOTUS and solutions for advancing equity in higher education. Panel included:
  - Thomas A. Saenz, President and General Counsel, Mexican American Legal Defense and Educational Fund (MALDEF)
  - David Hinojosa, Director of the Educational Opportunities Project at the Lawyers' Committee for Civil Rights Under Law
  - Dr. Estela Bensimon, Chair Board of Directors, Campaign for College Opportunity
  - Sally Chen, Education Equity Program Manager, Chinese for Affirmative Action
  - Stella Flores, Associate Professor, Department of Educational Leadership and Policy
  - Michael Turnage Young, Senior Counsel, NAACP Legal Defense Fund

### ***Funding Support***

Our efforts to advance equity in higher education post-affirmative action have been well received, as we have already raised close to \$500,000 for this project with \$200K pending grant proposals before the Kellogg Foundation and the Haas Jr. Fund. Currently this work is funded with direct support from the Lumina Foundation, the Stuart Foundation, and the College Futures Foundation. We are also grateful for the flexibility from the Kresge Foundation that allows us the opportunity to leverage general support dollars towards this effort. We continue to explore additional funding opportunities that will allow this work to have wide reach across California and the United States.