

The Civil Rights Project



Proyecto Derechos Civiles

Are Current Policy Changes Closing the Door to College for Students of Color?

New scholarly analyses of present and proposed policy changes

Tuesday, September 25, 2018

AGENDA

10:30-10:34 Welcome & Introduction

Gary Orfield, Professor/Co-Director, UCLA Civil Rights Project/*Proyecto Derechos Civiles*

10:35-11:14 Major findings from new research (7 mins. each)

10:35-10:42

OiYan Poon, Asst. Professor/Director, Center for Racial Justice in Education and Research, Colorado State University (Co-author Liliana Garces, University of Texas at Austin)

Asian Americans and Race-Conscious Admission: Understanding the Conservative Opposition's Strategy of Misinformation and Racial Division

10:43-10:50

Andrés Castro Samayoa, Asst. Professor, Boston College

Minority Serving Institutions under Trump's Presidency: Considerations for Current Policies and Future Actions

10:51-10:58

Brian Pusser, Assoc. Professor, University of Virginia (Co-author Matt Ericson, UVA)

The Impact of the PROSPER Act on Underrepresented Students in For-profit Colleges

10:59-11:06

Erin Corbett, Senior Analyst, Institute for Higher Education Policy (Co-author Julie Ajinkya, IHEP)

In Consideration of Reinstating Pell for Incarcerated Students

11:07-11:14

Nick Hillman, Assoc. Professor, University of Wisconsin-Madison

How Accountability Can Increase Racial Inequality: The Case of Federal Risk-Sharing

11:15-11:22 Commentator on new research

11:23-11:57 Q&A

11:58-12:00 Summary: Gary Orfield

Wifi password: cloakroom

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Asian Americans and Race-Conscious Admissions: Understanding the Conservative Opposition's Strategy of Misinformation, Intimidation and Racial Division

Liliana M. Garces, University of Texas at Austin & OiYan Poon, Colorado State University

This report examines the current wave of attacks against race-conscious policies in postsecondary admissions (or affirmative action as the policy is more commonly termed).

- Two new lawsuits making their way through the lower federal courts (*Students for Fair Admissions Inc. v. Harvard University et al.*, and *Students for Fair Admissions Inc. v. University of North Carolina et al.*), were both initiated by long-time opponent of affirmative action, Edward Blum, and the organization he created, Students for Fair Admissions.
- Actions by the Trump Administration that seek to discourage the use of constitutionally permissible race-conscious policies in postsecondary admissions and to intimidate colleges and universities that remain committed to using them with the possibility of DOJ investigations, with decisions to (1) redirect the Department of Justice's (DOJ) resources to investigate claims of discrimination at institutions that employ race-conscious admissions policies, (2) reopen the investigation of a complaint filed by a Chinese American student against Harvard, and (3) roll-back federal guidance on race-conscious admissions issued during the Obama administration.

This report focuses specifically on the roles that Asian Americans have come to play, both unwillingly and willingly, in these opposition efforts, and presents new research on Asian Americans' support for affirmative action.

- Continuing a prior line of attack that began in the 1980s, white affirmative action opponents are strategically using the argument of discrimination against Asian Americans to condemn the policy, seeking to split interracial coalitions that support the policy, and use Asian Americans as a racial cover for their anti-affirmative action efforts.
- This time they are capitalizing on a unique and recent rise of Chinese American immigrant opposition to affirmative action. Several factors help explain this sudden and vocal increase in Chinese American opposition, including exam-focused cultures and systems of selective college admissions in China, changes to U.S. immigration policies, limited social interactions for these recent Chinese immigrants with other people of color (including other Asian Americans), and misinformation on affirmative action circulated via social media (WeChat).

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Despite efforts by white affirmative action opponents to assert their agenda as one advocating for Asian American rights, and media accounts characterizing the Chinese Americans involved in opposition efforts as representative of Asian Americans in general, best evidence shows that the majority of Asian Americans across ethnicities support affirmative action.

- New research on Asian Americans' stances on affirmative action illustrate important commonalities in the support for race-conscious policies in admissions
- A few other examples include: in CA, home to the largest Asian American population in the U.S., 61% of Asian American voters rejected Proposition 209; in MI, 75% of Asian American voters rejected Proposition 2; 62% of Asian American undergraduate students enrolled at four-year colleges and universities across the U.S. disagree with efforts to abolish the policy; and multilingual opinion polls conducted nationwide since 2012 show an overwhelming majority (68%) of Asian Americans support race-conscious admissions.

Recommendations include:

- More comprehensive reporting by the media on Asian American stances towards affirmative action would address misperceptions and attempts to create racial division on this topic.
- Targeted outreach to develop a stronger connection between research findings and public discourse around the benefits of race-conscious admissions for Asian American students and the community at large.

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Minority Serving Institutions under Trump's presidency: Considerations for current policies and future actions

Andrés Castro Samayoa, Boston College

This study focuses on Minority Serving Institutions (MSIs), postsecondary institutions that have secured federal aid in a series of laws since the first iteration of the Higher Education Act of 1965. MSIs represent the accumulation of incremental efforts, albeit imperfect, to redress a systemically inequitable postsecondary field.

- MSIs continue to enroll and confer the majority of undergraduate and graduate degrees to students of color currently enrolled in colleges and universities in the United States; many of these students enter MSIs from under-resourced K-12 experiences. Though they account for less than 15% of all colleges in the nation, MSIs enroll around 40% of underrepresented students (Conrad & Gasman, 2015).
- These institutions include: Historically Black Colleges & Universities, Tribal Colleges & Universities, Hispanic Serving Institutions, Asian American Native American Pacific Islander Serving Institutions, Predominantly Black Institutions, Native American Serving Non-Tribal Institutions, and Alaska Native & Native Hawaiian Serving Institutions.

President Trump promised support for some MSIs, but the president's budget attempted to curtail appropriations for these institutions without offering compelling evidence to justify these choices.

- In Donald J. Trump's budget request during his first year in the White House, every single program for MSIs had a reduced budget, totaling close to \$95 million in proposed cuts (see Table IV.2).
- The largest requested reduction to a single program was for the Strengthening Historically Black Colleges fund (\$465,000).
- An Executive Order from the White House on Historically Black Colleges released later on would incorrectly assert that, "President Donald J. Trump prioritizes Historically Black College & Universities" (2018).
- Congress rejected the cuts and maintained the status quo for MSIs' budgeting; they have offered temporary stopgaps to Trump's attempts to decimate funding for the institutions that serve the majority of students of color in our country.
- For FY 2019, the Trump Administration once again attempted to cut funding for MSIs by doing away with multiple programs in the name of "efficiency." Both congressional Committees on Appropriations rejected this request.
- Current discrepancies across both congressional Committees on Appropriations and the presidential requests for FY 2019 point to the inconsistent vision for federal programs seeking to support students of color.

Recommendations:

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- The reauthorization of the Higher Education Act must include serious considerations of the long-term investment in Minority Serving Institutions.
- This reauthorization is an opportunity to address chronic structural issues that limit institutions' ability to serve all of their students of color, and to support multiple ethnoracial groups in colleges.
- Congressional democrats proposed increases for MSIs should be considered.

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The Impact of the PROSPER Act on Under-represented Students in For-profit Colleges

Brian Pusser & Matt Ericson¹

One striking aspect of the pending GOP-sponsored PROSPER Act is the degree to which it would roll back reforms instituted over the past three decades that have provided essential protections for students enrolled in for-profit universities, their families and their communities. We focus attention here on for-profit 4-year institutions and summarize an array of scholarly research and evidence about this sector. Research demonstrates that, by such essential measures as completion rates, student indebtedness, student loan delinquency, student loan default, and the public cost of for-profit institutional failure, for-profit 4-year colleges produce less effective outcomes for America's students, their families, communities and our higher education system than do nonprofit colleges.

Demographics and Outcomes

Student demographics at for-profit institutions are distinctly different from those at public and private non-profit institutions, and the outcomes for-profit colleges produce significantly impact Black, Hispanic, and other traditionally underrepresented students in higher education.

- For-profit 4-year institutions enrolled approximately 717,000 students in 2016.²
- In 2016, 46% of students enrolled in 4-year for-profit universities were Black or Hispanic students.³
- Graduation rates at 4-year for-profit colleges are significantly lower than those at both public and private non-profit institutions.
- For all students who began at a 4-year for-profit college in 2009, less than one-fourth (22.7%) had completed a baccalaureate degree by 2015. Over the same period, 66% of all students in 4-year private nonprofit universities completed a baccalaureate degree, and 59% of students in public universities completed a baccalaureate degree.⁴
- For Black students who began in 4-year for-profit universities in 2009, only 15.5% had completed a baccalaureate degree in six years. This was considerably less than half the six-year graduation rate for Black students who

¹ Brian Pusser is an Associate Professor in the Higher Education program of the Curry School of Education, University of Virginia. Matt Ericson is a doctoral student in the Higher Education program at the Curry School of Education, University of Virginia.

² *Digest of Education Statistics* NCES Table 306.50 Total fall enrollment in degree-granting postsecondary institutions, by control and classification of institution, level of enrollment, and race/ethnicity of student: 2016

³ U.S. Department of Education, Fall Enrollment component. See *Digest of Education Statistics 2017*, [table 306.50](#).

⁴ *Digest of Education Statistics* NCES Table 326.10.(2016). Graduation rate from first institution attended for first-time, full-time bachelor's degree-seeking students at 4-year postsecondary institutions, by race/ethnicity, time to completion, sex, control of institution, and acceptance rate: Selected cohort entry years, 1996 through 2009.

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began in 4-year public universities in 2009 (40.4%), and just over one-third of the six-year graduation rate for Black students who began in 4-year private nonprofit universities in 2009 (43.5%)⁵

- For Hispanic students who began in 4-year for-profit universities in 2009, only 28.7% had completed a baccalaureate degree in six years. This was far below the six-year graduation rate for Hispanic students in public universities (52.8%), and less than half the graduation rate for Hispanic students in private nonprofit universities (61.1%).⁶
- Students at for-profit institutions use a disproportionate amount of federal aid. They borrow, and default, at significantly higher rates than students at non-profit institutions.
- In 2014, approximately 580,000 students defaulted on their student loans after two years. Of those, just over 190,000 (32%) had been enrolled in the for-profit sector, which enrolled approximately 10% of all students in postsecondary education.⁷
- For borrowers who entered repayment in 2011-2012, the rate of default for students in for-profit 4-year institutions, two years after beginning repayment, was twice as high as for students in public nonprofits, and more than 2.5 times higher when comparing for-profits to private nonprofits.⁸
- After five years, 47% of the 2009 cohort of student borrowers in for-profit institutions had defaulted on federal student loans.⁹

Recommendations

Reauthorization should include greater regulation of the for-profit sector and a shift in resources and support to those institutions with the most effective outcomes for students--America's nonprofit private and public colleges.

- Preserve the existing gainful employment and cohort default rate provisions in order to increase accountability--through federal collection and analysis of data on labor market outcomes for students in for-profit colleges and their ability to repay loans incurred while enrolled.
- Return to the 85/15 rule in place under earlier reauthorizations.
- Restore restrictions on incentive payments for generating enrollments.

⁵ Ibid.

⁶ Ibid.

⁷ Comparison of FY 2014 Official National Cohort Default Rates to Prior Two Official Cohort Default Rates Calculated August 5, 2017. Federal Student Aid – An Office of the U.S. Department of Education.

⁸ Adam Looney and Constantine Yanelis. The Crisis in Student Loans? How Changes in the Characteristics of Borrowers and in the Institutions they Attended Contributed to Rising Loan Defaults. Abstract, and Comment by Karen Pence. Brookings Paper on Economic Activity. Fall 2015.

⁹ Ibid.

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- Restore the borrower defense rules and add additional protections for students against institutional fraud.
- Restore income-contingent repayment plans and develop new, evidence-based plans to ease loan repayment.
- Create financial and other incentives for institutions of all types to increase student completion.

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In Consideration of Reinstating Pell for Incarcerated Students

Erin S. Corbett and Julie Ajinkya

Data about the epidemic of mass incarceration, the collateral consequences of conviction, and the civil rights implications of their related trends are widely known.

- Black citizens are incarcerated at rates almost seven times higher than that of White citizens and a little over two times higher than that of Latinx citizens (Prison Policy Initiative, 2012)
- Substantial education attainment gaps exist between the incarcerated population and the average US Household (PIAAC 2014)
- Noteworthy income level stratification has been identified between pre-incarceration income of those in custody and income within the average (read: nonincarcerated) US Household (Rabuy and Kopf 2015)

The current political climate has seen more attention paid to the issues surrounding mass incarceration, with bipartisan recognition that providing education programs inside correctional facilities is beneficial for the individual and society. Research has found that education and post-release outcomes are often closely correlated but it has also indicated that the racial disparities reflected in the demographics of the incarcerated population may also impact outcomes (Clear, 2007; Freeman, 1992; Pager, 2003; Pager, 2007).

To examine and better understand the impact of educational access on post-release outcomes, the Second Chance Pell Experiment began in Fall 2016, allowing Pell access for up to 12,000 persons in carceral custody. The importance of this experiment cannot be overstated.

- While Pell had been available to incarcerated persons from the program's onset, the Violent Crime Control and Law Enforcement Act (VCA) of 1994, 108 Stat. 1796 banned its use by those in federal and state correctional facilities
- It is estimated that prior to the ban for confined learners, at least 300 higher education programs were operating inside prisons

Results from the experiment, particularly around credential completion and some post-release employment outcomes, have been positive.

- By the conclusion of Fall 2017, student enrollment had increased 231% since the beginning of the experiment and the number of courses offered had increased 124%

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- In terms of completion metrics, 954 postsecondary credentials have been awarded since the start of the experiment; 701 are certificates, 230 are associate's, and 23 are bachelor's degrees

The success of the experiment, particularly amid conversations around Higher Education Act reauthorization, prompt practitioners, researchers, and policymakers to consider the potential impact of reinstating Pell access for incarcerated students, writ large. Questions remain about the extent to which reinstating Pell for incarcerated students can help to address, and perhaps ultimately narrow, educational attainment and employment gaps. Traditional examinations of attainment equity include conversations around disparities within and among gender identities, race/ethnic delineators, and socioeconomic strata; these examinations, however, implicitly assume that the students in question are not incarcerated. Further research is needed to recontextualize these equity conversations and critically understand both practice and policy implications associated with the reopening of Title IV funding for this population.

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How accountability can increase racial inequality: The case of federal risk-sharing

Nicholas Hillman, University of Wisconsin-Madison

Main Point:

- Since both colleges and students have very different resources and starting points, good policy should strengthen the ability of campuses and students to succeed and not punish them for taking important chances despite limited resources and greater challenges.
- Policymakers are interested in using student loan repayment rates as an accountability metric for colleges. But applying an overly simplistic accountability metric that fails to account for these differences is likely to reinforce existing inequalities.

Findings:

- Using College Scorecard data, this paper finds federal risk-sharing policies based on loan repayment rates – even if well-intended – are likely to reinforce racial and economic inequality.
- High repayment rate colleges disproportionately enroll white students and those whose average family income is nearly four times larger than the low repayment rate colleges (\$87,350 versus \$18,790, respectively).
- Three in four of the nation's lowest repayment rate colleges are for-profit institutions.
- Approximately one in three Historically Black College and Universities (HBCUs) and Predominantly Black Institutions (PBIs) are in the group of colleges with the lowest repayment rates.
Colleges charging high net price, and those where large shares of students borrow or are first-generation, have lower repayment rates.

Recommendation:

- The paper offers policy alternatives that would promote equity-based accountability through very different policy instruments including: *performance development grants, need-based aid for colleges, comprehensive repayment outreach, and technical assistance labs.*

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Authors and Presenters Bios

Julie Ajinkya is the vice president of applied research at the Institute for Higher Education Policy (IHEP). Her research interests include equity in postsecondary education and innovative models that improve degree completion for underserved populations. Prior to joining IHEP, she worked at the Center for American Progress (CAP), focusing primarily on underserved populations and the impact that demographic change has on a diverse portfolio of policy issues. Her work at CAP culminated in the book, *All-In Nation: An America That Works for All*, which argues that equity is the best model for economic growth and lays out a federal policy blueprint to close gaps between racial/ethnic groups and meet our future workforce needs. Ajinkya also serves as visiting professor of government at Cornell University's Washington, DC campus, teaching courses on race, inequality and public policy. She earned her Master's and Doctoral degree in government from Cornell University, where she was first exposed to the importance of postsecondary education for incarcerated and formerly incarcerated students through work with Auburn and Cayuga Correctional facilities. Ajinkya also holds a B.A. in political science from Amherst College.

Andrés Castro Samayoa is assistant professor of higher education at the Lynch School of Education at Boston College. His research focuses on Minority Serving Institutions with a focus on culturally responsive pedagogies and the use of data in institutional and federal decision-making processes. He is the co-editor of *Educational Challenges at Minority Serving Institutions* (Routledge, 2017), and the forthcoming *Primer on Minority Serving Institutions* (Routledge, 2019).

Erin S. Corbett is a senior research analyst at the Institute for Higher Education Policy (IHEP). Her research interests include higher education in prison as well as higher education policy for incarcerated and formerly incarcerated individuals. Corbett has spent almost two decades in education access in a number of roles. With experience in independent school admission, enrichment programs, and postsecondary financial aid. Her commitment to expand postsecondary opportunities for all populations has served as the foundation of her professional endeavors. While pursuing her doctorate, Corbett launched a nonprofit that provides not-for-credit, postsecondary level courses in two correctional facilities in Connecticut. In addition to the classes she taught there, she has also taught in two correctional facilities in Rhode Island. Corbett holds a B.A. in Psychology and Education from Swarthmore College. She earned her MBA from Post University in Connecticut and her doctorate from the University of Pennsylvania, where her dissertation examined the relationship between educational attainment level and post-release employment outcomes for Connecticut ex-offenders.

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Matt Ericson is a doctoral student in the Higher Education program at the University of Virginia. Matt's research uses quantitative methods and longitudinal data to address how college quality affects student outcomes. He is also studying the role that geography plays in college-going patterns for transfer students in Virginia and has supported the President's Office at UVa on a project designed to enhance programming for first-generation college students.

Liliana Garces is associate professor at the University of Texas at Austin and affiliate faculty at the School of Law. Her research examines the intersection of law and educational policy, focusing on access, diversity, and equity in higher education, and the use of social science research in law. Her scholarship is published in peer-reviewed journals, law journals, policy reports, and books. She is co-editor of *Affirmative Action and Racial Equity: Considering the Fisher Case to Forge the Path Ahead* (Routledge, 2015) and *School Integration Matters: Research-Based Strategies to Advance Racial Equity* (Teachers College Press, 2016). She has served as counsel of record in four *amicus curiae* briefs filed in the U.S. Supreme Court, including one filed in *Fisher v. University of Texas* by 823 social scientists. She was co-author (with OiYan Poon) of an *amicus* brief filed recently in the *SFFA v. Harvard* case. In 2014, she received the American Educational Research Association's Palmer O. Johnson Memorial Award and was recognized with the Association for the Study of Higher Education's Early Career Award in 2015. She previously worked as a civil rights lawyer and judicial law clerk in federal district court. She holds a doctorate in education from Harvard University, a juris doctor from the University of Southern California, and a B.A. from Brown University.

Nick Hillman is an associate professor of Educational Leadership and Policy Analysis at the University of Wisconsin-Madison. There, he teaches graduate seminars on statistics, the politics of education, and higher education finance. His research focuses on educational inequality and efforts to improve access and completion. His work includes research on student loan debt and repayment, state performance-based funding policies, and the geography of college opportunity. Most recently, he co-edited (with Gary Orfield) *Accountability and Opportunity in Higher Education: The Civil Rights Dimension*, published by Harvard Education Press that outlines new ways to use accountability as a tool to promote civil rights. Professor Hillman is also a faculty affiliate with the La Follette School of Public Affairs and the Institute for Research on Poverty at the University of Wisconsin-Madison.

Gary Orfield is a Distinguished Research Professor of Education, Law, Political Science and Urban Planning at the University of California, Los Angeles. Orfield's research interests are in the study of civil rights, education policy, urban policy, and

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minority opportunity. He was the co-founder and director of the Harvard Civil Rights Project, and now serves as co-director of the Civil Rights Project/Proyecto Derechos Civiles at UCLA. His central interest has been the development and implementation of social policy, with a central focus on the impact of policy on equal opportunity for success in American society. Orfield is a member of the National Academy of Education and has received numerous awards including honorary Ph.D's, the Teachers College Medal, the Social Justice Award of the AERA and the Charles Merriam award of the American Political Science Association for his "contribution to the art of government through the application of social science research."

OiYan Poon is an assistant professor of higher education and Director of the Center for Racial Justice in Education and Research at Colorado State University. Her research focuses on the racial politics and discourses of college access, critical race pedagogies, affirmative action, and Asian Americans. In 2014, she received an emerging scholar award from ACPA: College Student Educators International. In 2016, she accepted the Mildred García Award for Exemplary Scholarship from the Association for the Study of Higher Education Council on Ethnic Participation. With Liliana Garces in 2018, she co-authored an *amicus* brief in the *SFFA v. Harvard* case, filed on behalf of 531 social scientists supporting race-conscious admissions practices. After earning her B.A. at Boston College and M.Ed. at the University of Georgia, Poon worked in multicultural student affairs as the first Asian Pacific American Student Affairs director at George Mason University and the first Student Affairs Officer in Asian American Studies at UC Davis. She completed her doctorate in education with a certificate in Asian American studies from UCLA, and while there was elected to serve as President of the University of California Student Association, which represent the interests of all UC students in the statewide system's governance process.

Brian Pusser is an associate professor of Higher Education in the Curry School of Education at the University of Virginia. His research focuses on the politics of higher education, the organization and governance of postsecondary institutions, national and international postsecondary policies, and international and comparative higher education. He has authored and/or co-authored articles published in the *Journal of Higher Education*, *Educational Policy*, *Research in Higher Education*, and *Higher Education: Handbook of Theory and Research*. He is the co-editor of *Critical Approaches to the Study of Higher Education* (2015) from Johns Hopkins University Press, which received the American Educational Research Association's Division J (Higher Education) 2016 Outstanding Publication Award. He is also co-editor of *Universities and the Public Sphere: Knowledge Creation and State Building in the Era of Globalization* (2012) from Routledge Press.