

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COALITION TO DEFEND AFFIRMATIVE ACTION, *et al.*,

Plaintiffs,

v.

JENNIFER GRANHOLM, REGENTS OF THE
UNIVERSITY OF MICHIGAN, BOARD OF
TRUSTEES OF MICHIGAN STATE UNIVERSITY,
BOARD OF GOVERNORS OF WAYNE STATE
UNIVERSITY, MICHAEL COX, ERIC RUSSELL,
and the TRUSTEES OF any other public college or
university, community college or school district,

Defendants.

- and -

CHASE CANTRELL, *et al.*,

Plaintiffs,

v.

JENNIFER GRANHOLM, in her Official Capacity
as Governor of the State of Michigan,

Defendant.

Case No. 06-15024
Hon. David M. Lawson

CONSOLIDATED CASES

Case No. 06-15637
Hon. David M. Lawson

**DECLARATION OF JEANNIE OAKES IN SUPPORT OF THE CANTRELL
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

[CONFIDENTIAL: EXHIBIT ONE FILED UNDER SEAL]

DECLARATION OF JEANNIE OAKES

I, Jeannie Oakes, declare the following:

1. I have agreed to serve as an expert witness in this matter on behalf of the Cantrell Plaintiffs. I submit this declaration, and the attached report, in support of the Cantrell Plaintiffs' Motion for Summary Judgment.

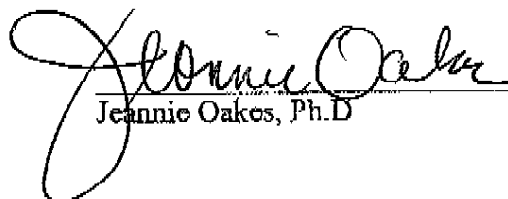
2. I authored the attached study, entitled "The Viability of Race-Neutral Approaches for Achieving Diversity at the University of Michigan," for the purpose of this litigation.

3. The conclusions contained in that study are my own, and I can and will testify, if asked, to the content of my conclusions and the basis for each of them.

4. I have also attached an accurate and current *curriculum vitae*.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 30 day of November, 2007 in Washington, D.C. ®


Jeannie Oakes, Ph.D

CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that on this 30th day of November, 2007, I served a true and correct copy of the foregoing via electronic mail and First Class Mail upon:

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Karin A. DeMasi

The Viability of Race-Neutral Approaches for Achieving Diversity at the University of Michigan

Jeannie Oakes, Presidential Professor in Education Equity
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I. Introduction

I am Presidential Professor in Educational Equity in UCLA's Graduate School of Education and Information Studies, Director of the University of California's All Campus Consortium on Research for Diversity (ACCORD); and Co-Director of UCLA's Institute for Democracy, Education & Access (IDEA.) My research examines inequalities in U.S. schools, (including inequalities in access to college), and follows the progress of equity-minded reform. As detailed in my curriculum vitae (Appendix A), I am the author of 17 scholarly books and monographs and more than 100 published research reports, chapters, and articles. My awards for this work include the Distinguished Achievement Award from the Educational Press Association of America; three major awards from the American Educational Research Association (Early Career Award; Outstanding Research Article; Outstanding Book), and the National Association for Multicultural Education's Multicultural Research Award. I am also the recipient of Southern Christian Leadership Conference's Ralph David Abernathy Award for Public Service. One of my recent books, *Becoming Good American Schools: The Struggle for Civic Virtue in Education Reform* won AERA's Outstanding Book Award in 2001. In addition to my scholarly publications, I have assisted state and national policymakers in developing equity-focused education reform and most recently served as an advisor to Joint Legislative Committee for the California Educational Master Plan, K-University. I have also conducted research and testified in three school desegregation cases—San Jose, California; New Castle County, Delaware; and Rockford, Illinois. In addition, I served as an expert consultant in a fourth desegregation case, the *Hoots* case in Woodland Hills, Pennsylvania and, most recently, in the *Williams v. California* litigation focused on students' access to basic learning opportunities.

II. Nature of the Assignment

This report examines whether the racial diversity the University of Michigan requires can be achieved without considering race in the admissions process. Specifically, it investigates the extent to which permitted race-neutral university admissions policies are likely to produce the diversity the university requires.

III. Research Approach

To examine these questions, this report draws from the experiences of Texas and California and contrasts relevant circumstances in these states with those in Michigan. It also investigates admissions data from the University of Michigan about the pool of applicants, admits, and enrollees as well as publicly available data about Michigan's K-12 schools to in order to assess the likely outcomes of "race-neutral" strategies on the diversity of freshman admits to the University of Michigan. These analyses consider the composition of the 2005 pool of University of Michigan freshman admits and enrollees as a baseline against which to assess the likely impact of race-neutral strategies on the diversity of the University of Michigan undergraduate student body. As shown in the table below, the racial composition of the class of students admitted in 2005 as first-time freshmen mirrors the racial composition of Michigan's public school enrollment for white and Latino students. Blacks are underrepresented by almost 300%, and Asians are overrepresented by slightly more than 800%.

Racial Composition of University of Michigan Freshman Admits and Michigan Public School Students

| | 2005 Michigan Public School Enrollment | 2005 Freshman Admits | 2006 Undergraduate Student Body |
|----------|--|----------------------|---------------------------------|
| Black | 20% | 7% | 7% |
| Hispanic | 4% | 5% | 5% |
| Asian | 2% | 17% | 13% |
| White | 72% | 71% | 67% |

Source: Data provided by the University of Michigan

Using the 2005 percentages as a baseline recognizes that past practice at the University of Michigan in which race was one of many factors considered in the admissions process fell short of equitably representing students from the state's racial groups. Using this baseline does not presume that the undergraduate student body yielded by past admission practices included a critical mass of black and Hispanic students required for achieving the benefits of a diversity student body. Rather, the goal in this analysis is simply to assess whether current percentages of underrepresented minority (URM) students would likely remain in a race-neutral admissions environment. In other words, the analysis looks at whether race-neutral admission practices would make the University of Michigan less racially diverse.

I was assisted in the preparation of this report by Erica Frankenberg, Harvard University Graduate School of Education; Professor Mark C. Long, University of Washington, Daniel J. Evans School of Public Affairs; and Professor Michal Kurlaender, School of Education, University of California Davis.

IV. Conclusions

A. Race-neutral admissions strategies (e.g., Percent Plans) have not been effective as replacements for race-conscious strategies in maintaining or increasing diversity in the public universities in Texas and California, two states with restrictions on race-conscious practices in university admissions similar to those required under Michigan's Proposal 2.

Race-neutral Percent Plans that guarantee admission to the top ranked graduates of each public high school have not been successful in either California or Texas in maintaining levels of racial diversity comparable to those achieved with race-conscious policies prior to the *Hopwood* case in Texas or the passage of Proposition 209 in California that made race-conscious policies impermissible.

B. Michigan differs from California and Texas in ways that make it even more unlikely that race-neutral approaches would result in the diversity required at the University of Michigan. In fact, such strategies would likely exclude from admission in-state African American and Latino high school graduates with academic preparation sufficient to succeed at the university.

B.1. Whereas the top-tier universities in California and Texas draw their freshman classes almost exclusively from graduates of California high schools, a majority of those offered admission as first-time freshmen at the University of Michigan (including a majority of those from underrepresented minority groups) are not Michigan residents. Race-neutral admissions criteria (e.g., Percent Plans) and outreach strategies focused on Michigan high schools would not benefit the large percentage of underrepresented minority students who are drawn from other states. Moreover, given the substantially lower scores on academic admissions criteria of non-resident underrepresented admits, in comparison to non-underrepresented admits, few of these underrepresented out-of-state admits would likely be admitted were race not a consideration in the admissions processes.

B.2. The high degree of racial segregation in Michigan high schools means that students from underrepresented minority groups are concentrated in a very small percentage of the state's high schools. As a result, a plan guaranteeing admission to high ranking students at each of the state's high schools would have its greatest benefit to students in schools with predominantly white populations and yield a relatively small number of underrepresented minority students.

B.3. The small number of Michigan high schools with predominantly URM populations produces relatively few graduates with the academic records that would make them competitive for admission at the University of Michigan. This, in part, results from the relationship between the high concentration of poverty at racially isolated minority schools and the low level of opportunity associated with these schools. Lower levels of opportunity, in turn, affect the academic performance of students, specifically their ability to meet state standards on assessment tests,

qualifying for state merit aid for college. These low levels of achievement are related to the racial and/or poverty composition of a student's high school. Consequently, race-neutral "Percent Plans" would like result in the admission of underrepresented minority students with academic preparedness far below that required to succeed in an "elite" university.

V. Supporting Evidence

A. Race-neutral admissions strategies have not been effective as replacements for race-conscious strategies in maintaining or increasing diversity in the public universities in Texas and California.

The effects of abandoning affirmative action programs have been investigated by some researchers who have looked at both policy changes restricting affirmative action (in California and Texas in particular), or have conducted simulations based on small sets of elite institutions. Results from these studies suggest declines in overall enrollments of underrepresented groups at the most selective colleges and universities. The effect of ending affirmative action is not confined to admissions decisions. Analyses of application patterns tell a similar story: the proportion of African American and Hispanic students applying to top-tier institutions decline in the absence of affirmative action (Long 2004; cf. Barreto and Pachon, 2003) and there is some evidence that suggests that the proportion of minority students that even take a college entrance exam (required for admission to most four-year colleges) declines in the absence of affirmative action (Dickson 2006).

Most state systems that ended race-conscious admissions replaced them with "race-neutral" policies to attempt to address inequities in K-12 schooling that result in racial disparities in higher education admission. The most commonly utilized approach is a Percent Plan, which guarantees admission for a fixed percentage of students who rank at the top of their high school class in the state. The specifics of these plans vary substantially, for example, the plans of California, Texas and Florida (Horn and Flores 2003). Percent Plans' efforts to diversify admission to selective public universities rest on the assumption that secondary schools are in large part highly segregated by race, and thus, top students in a high-minority school will have a relative advantage in gaining admission to the state's flagship universities. Other school-based "Outreach" approaches seek to increase the academic performance and college going of students at low performing schools with academic preparation programs, mentoring, assistance in the college application process, and other college-going supports. Universities have also responded by changing the weights given to various non-racial student characteristics in the admissions process.

Details about the specific impact in California and Texas are summarized below.

California. The University of California is made up of ten campuses that offer undergraduate and graduate education. It is a highly selective system, targeting admission to only the top 12.5% of the state's high school graduates under California's Master Plan

for Higher Education.¹ Students become eligible for the University of California based on a minimum grade-point average on a specified set of high school courses (known as a-g courses) and defined scores on standardized admissions tests (SAT or ACT). Students who meet basic eligibility are guaranteed access to a UC campus, although not necessarily one of the applicant's choice, due to the increased selectivity of some of the more competitive campuses within the UC, in particular Berkeley, Los Angeles and San Diego.

Historically, the University of California has engaged in affirmative action in order to enroll a student body that reflects the demographic composition of California. California is one of the most diverse states in the nation, where the demographics are rapidly changing as the growth in the Latino population increases, and whites no longer represent the majority of the state's school-age population (Census Bureau 2000).

The University has worked to attain a diverse student body through targeted outreach programs in K-12, and through the use of race/ethnicity as a factor in admissions. Given significant racial disparities in the eligibility pool and on grades and test scores, the most selective UC campuses employed a dual admissions process to ensure diverse enrollment, one for whites and Asians, and another for underrepresented minority groups (Douglass 1999). The percentage of underrepresented minorities in the UC freshmen class overall grew from 9.9% in 1980 to 21.0% by 1995 (UCOP Report 2003).

Changes in these race-conscious policies, as a result of the UC Regents' ban on the use of race in admissions in 1995 and the passage of Proposition 209 in 1996 have had a significant, negative impact on minority applications, admissions, and enrollments.² Specifically, Proposition 209 prohibited the state from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

Although the Board of Regents decision in 1995 and the passage of Proposition 209 in the fall of 1996 did not go into effect until the entering class of 1998, the University of California witnessed immediate drops in applications from underrepresented groups (Karabel 1998). Many observers attributed these immediate declines to the "chilling effect" resulting from the end of race-conscious practices on

¹ For more detail, see Grodsky & Kurlaender (2006), *The Demography of Higher Education in the Wake of Affirmative Action*, Paper Prepared for the Conference—*Equal Opportunity in Higher Education: The Past and Future of Proposition 209*, Sponsored by the Chief Justice Earl Warren Institute on Race, Ethnicity, and Diversity at Boalt Hall, University of California Berkeley (October, 2006). The 1960 Master Plan outlines California's higher education structure and articulates the University of California (UC) as the state's premiere research university.

² Richard Atkinson (President Emeritus of the University of California) writes, "[the Regents decision (SP-1) and the passage of Proposition 209] transformed California into a battleground where opposing views of individual merit, fairness, and educational opportunity struggled to prevail (and still do). They also made the University of California a case study in how an elite public university, required to employ admissions policies that are demonstrably inclusive and fair, responded to the end of nearly 30 years of affirmative action" (Atkinson and Pelfrey 2004).

minority applicants to the University (Orfield and Miller 1998). In 1995, 21.5% of UC applicants were from an underrepresented minority group, by 1998, 17.5% of UC applicants were from an underrepresented minority group. Minority applicant rates stabilized at about 17% following Prop 209 implementation, and then actually increased in subsequent years, albeit not to the pre-209 levels. The result is that ten years later, the representation of Latino, African American, and American Indian students in the University of California (UC), and particularly at the UC's most selective campuses, has decreased, even as these groups make up a larger share of California high school graduates.

Admission and enrollment rates of underrepresented groups declined further in 1998 when Proposition 209 was implemented. Overall, enrollment levels of underrepresented minority applicants at the University of California before SP-1 or Prop 209 were about 21% system-wide; immediately after 209 went into effect, enrollments of underrepresented minority applicants dropped to about 15% (UCOP Report 2003). The drop at the most selective campuses was greater. In one year, (between 1997 and 1998), the fraction of minorities in the UC Berkeley freshmen class fell from 22% to 12%; UCLA URM freshmen went from 22% to 15%; and UC San Diego went from 13% to 10%. (Card and Krueger, 2005).

By 2002 underrepresented groups represented about 17% of UC freshmen matriculants (UCOP Report 2003). Moreover, given the growth in the percentage of California high school graduates who are students of color, the gap in UC enrollment of underrepresented groups widened considerably. In 1995, 38.3% of California high school graduates were from an underrepresented minority group and only 21% of new UC freshmen were from an underrepresented minority group (a difference of 17.3%). In 1998 following the implementation of 209, the gap had widened to nearly 24%, as underrepresented groups constituted 41.6% of California high school graduates, but only 17.8% of new UC freshmen (UCOP 2003).

The University of California and Governor Gray Davis developed multiple strategies to address the declining enrollment of African American, Latino and Native American students after the passage of Proposition 209. The "Four Percent Plan" (also called Eligibility in the Local Context) was one strategy. Under this plan high school graduates in the top four percent of their high school were guaranteed admission to at least one of the University of California campuses. However, the four percent plan has not adequately increased admission and enrollment of URM students in the University of California. The plan has been particularly limited in increasing URM admission and enrollment at the most selective UC campuses (Los Angeles, Berkeley). Less than three-fourths of California students in the top 4 percent plan apply and are admitted to these two most selective campuses. The first year the 4 percent plan was in effect (2001), African American freshmen enrollment at Berkeley fell to 3.9 percent (compared to 7.8 percent in 1997). Similarly, Latino freshmen enrollment at Berkeley dropped to 10.8 percent (compared to 14.6 percent in 1997).

In a recent paper, Grodsky and Kurlaender (2006) evaluate changes in minority matriculation at California public and private institutions in the wake of affirmative action. Specifically, they investigate how minority enrollments across institutions shifted as a consequence of Proposition 209. They also examine the degree to which California's community colleges and private colleges and universities may have compensated for the losses in minority enrollment at some of the more selective public institutions. Their results corroborate earlier findings that the elimination of affirmative action led to declines in minority enrollment at selective public comprehensive colleges in California. Yet, in addition to the much-publicized declines in minority enrollments at the state's most selective public institutions, several other considerably less selective public four-year institutions also witnessed big losses in Black and Latino enrollments post-2009.

For African Americans, they find that minority enrollment in public four-year colleges declined by about one percent, while African American enrollment at private not-for-profit and proprietary institutions increased by 1.2% and 3.5% respectively. For Hispanic students, they find a modest and non-significant decline in enrollment at public four-year colleges accompanied by a 4.7% increase in community college matriculation. The shares of incoming Hispanic students at private not-for-profit and proprietary schools increase by 2.5% and 5.9% respectively. These mean shifts mask important changes in minority enrollment patterns across institutions of each type as well as shifts in the average quality of the institution under represented minority students attend. In the absence of affirmative action, Black and Latino students clearly turned to the least selective UC campus—UC Riverside—and to some of the state's less selective four-year public institutions.

Moreover, the average SAT scores of schools attended by African American and Hispanic students declined by over 100 points (a half a standard deviation) as a result of Proposition 209. Private institutions compensate for this decline in part in the case of African American students, but not in the case of Hispanic students. Overall, however, their results suggest that both Black and Latino students increased their reliance on private four-year and proprietary sub-baccalaureate institutions post-2009. In addition, Latino students also saw large increases in enrollment at community colleges post-affirmative action.

Texas. Despite serious efforts by policymakers and university administrators to maintain minority enrollment at Texas' flagship public higher education institutions (notably UT-Austin and Texas A&M), minority students' share of enrollment at these institutions has not achieved the levels that would have occurred had these institutions been allowed to maintain their pre-*Hopwood* affirmative action policies. There is no evidence that the variety of approaches taken (including the Top-10% policy, which grants automatic admission to Texas public universities for students in the top-10% of his or her high school class; changes in the weights attached to various applicant characteristics aside from race; and additional recruiting efforts and new scholarship

programs) have completely reversed the adverse effects of the *Hopwood* implementation on minority representation.³

In raw levels, minority students' share of enrollment is higher now than it was in 1996 (before *Hopwood* was implemented) for both universities. The press highlighted this rebound as evidence for the effectiveness of the top-10% plan. However, a close analysis of the impact of the Texas percent plan suggests that minority students admitted under the plan at the most selective campuses would likely have been admitted anyway (Tienda et al 2003). Furthermore, even in majority-minority schools, white students are more likely than URM students to graduate in the top 10% of their high school class and more likely to be aware of the top 10% law (Niu, Sullivan, and Tienda 2006).

The recovery in minority representation at UT Austin was largely a result of rigorous race attentive recruitment efforts (Horn and Flores 2003) and robust growth in minority students' share of high school graduates in Texas. As Long documents (2007, Figure 2), the degree of under-representation of Blacks, Hispanics, and Native Americans among enrollees (relative to the minority share of Texas high school graduates) increased post-*Hopwood* from 20 to 25 percentage points at UT-Austin and from 25 to 30 percentage points at Texas A&M. The degree of freshman enrollee under-representation of minorities at UT-Austin has remained virtually unchanged since 1997: 24.4% in 1997 and 23.7% in 2004. At Texas A&M, the freshman enrollee under-representation of minority students has worsened from 27% in 1997 to 30.3% in 2004.

The evidence from both California and Texas make clear that the elimination of race as a consideration in undergraduate admissions to the University of Michigan will result in enrollments of underrepresented minority students at rates considerably lower than has been the case, even if the university mounts vigorous race-neutral efforts to achieve diversity.

B. Michigan differs in key respects from California and Texas that make it even more unlikely that race-neutral approaches could result in the diversity required in the University of Michigan. In fact, a possible unintended consequence of such strategies would be to systematically exclude most of the URM Michigan high school graduates who have sufficient levels of academic preparation to be successful at the University of Michigan.

³ As shown in Long and Tienda (2007), the Top-10% plan led to a 42% rebound in the share of minority applicants accepted by at UT-Austin and 12% rebound at Texas A&M.³ In addition, that these universities changed the weights placed on applicant characteristics (e.g., lowering the positive weight placed on SAT scores, lowering the penalty attached for attending a lower quality high schools, etc.). These changes benefited minority applicants, and produced rebounds of 32% at UT-Austin and 18% at Texas A&M. Thus, the cumulative rebounds were 60% at UT-Austin and 28% at Texas A&M. That is, while the combination of state and university efforts was helpful, it was not able to replicate the minority representation that would have occurred with traditional affirmative action. In addition, these admission changes lowered the SAT scores of entering students at these universities. It is unlikely that universities would be willing to go further in using such proxies for race in their admissions decisions.

B.1. The University of Michigan draws a majority of its Freshman class (and a majority of the freshmen from underrepresented minority groups) from out-of-state high school graduates. This contrasts with the top-tier universities in California and Texas that draw their freshman classes almost exclusively from graduates of California and Texas high schools, respectively.

Approximately 90% of the freshman admits at the University of California, for example, are graduates of California high schools. In 2007, UC admitted a record number of freshman students for the fall 2007 term. A total of 57,318 California high school seniors were offered admission. Nine out of every 10 admitted freshman students are California residents. Admissions offers to out-of-state and international students numbered 6,283, a slight increase over fall 2006 (6,143).⁴ Texas' flagship public university, University of Texas at Austin's in-state admits comprise about 95% of the freshman class. For example, in Fall 2006, only 5.5 percent of entering freshmen were out-of-state students.⁵

In contrast, the University of Michigan selects a considerable portion of its freshman class each year from applicants who are not graduates of Michigan high schools. The following chart shows how this practice affected the composition of the African American and Latino admits in 2005. As the table below shows, more than half of the African American and more than 70% of the Hispanic admitted students in 2005 (for whom the university reported residency data) were not residents of the state.

**2005 Admits
Ethnicity by Residency**

| | # In State (IS) | % In State (IS) | # Out of State (OS) | % Out of State (OS) |
|-------------------------|------------------------|------------------------|----------------------------|----------------------------|
| African American | 275 | 47.74% | 292 | 51.49% |
| Hispanic | 151 | 28.92% | 371 | 71.01% |

Source: Data provided by the University of Michigan

This pattern of admissions stems from the university's explicit interest in enrolling a diverse student body that represents "Undergraduates from all 50 states and over 80 foreign countries; over one-third from outside the state of Michigan."⁶

Michigan's high proportion of freshman admits from outside the state poses particular problems for maintaining or increasing diversity under Proposal 2's restrictions. Moreover, since school-based race-neutral policies such as Percent Plans do

⁴ http://www.ucop.edu/news/factsheets/2007/fall_2007_admissions_summary_e.pdf

⁵ <http://bealonghorn.utexas.edu/whyut/studentlife/population/index.html>

⁶ <http://www.admissions.umich.edu/fastfacts.html>, accessed on 11-27-07.

not reach beyond the state borders, these students cannot possibly benefit from such plans.

Additionally, race-neutral admissions policies are likely to reduce the admissions of underrepresented minority out-of-state applicants, in that, on average, admitted students from this group admits score significantly lower on academic admissions criteria than those admitted from non-underrepresented groups. The following table shows that, although underrepresented admits from out-of-state in 2005 scored somewhat higher on academic admissions criteria than did in-state underrepresented admits, they are, as a whole, far less likely to be competitive for admission in a race-neutral admissions environment.

Academic Profile of 2005 Freshman Admits by Race and Residency

| | SAT Verbal | SAT Math | ACT Composite | GPA |
|-------------------------|------------|----------|---------------|-----|
| Not URM Admits | 661 | 699 | 29 | 3.8 |
| URM In-State Admits | 571 | 574 | 24 | 3.4 |
| URM Out-of-State Admits | 620 | 628 | 26 | 3.4 |

Source: Data provided by the University of Michigan

B.2. The high degree of racial segregation in Michigan high schools means that students from underrepresented minority groups are concentrated in a very small percentage of the state’s high schools.

As a result, a plan guaranteeing admission to high ranking students at each of the state’s high schools would have its greatest effect on schools with predominantly white populations, yield a very small number of URM students from these schools, and would likely yield many admits without sufficient academic preparation to succeed at the university.

As noted above, Michigan’s public school enrollment is 1.7 million, with 72% white students. An additional 20% of students are black, 4% Latino, 2% Asian, and 1% Native American. (2005-2006 data). From 1990-1991 to 2005-2006, Michigan public school enrollment grew more than 13%.⁷ Like the rest of the country, Michigan’s public

⁷ The primary source of data is the National Center for Education Statistics Common Core of Data (CCD). The CCD’s Public School Universe has collected data from virtually every public school district in the nation since 1987, using student enrollment counts. These data provide the opportunity to analyze student enrollments, by race/ethnicity and by poverty status, across districts and years. The analyses here use data from 1990-91 through 2005-06, the latest year of CCD data that has been released.

school enrollment has also grown more diverse during this time period although Michigan's public school enrollment is not as racially diverse as the national enrollment.⁸ In 1990, 78% of students were white while only 72% were in 2005. The percentage of both Latino and Asian students has doubled, and the percentage of black students has also slightly increased.

Black students remain, by a large margin, Michigan's largest minority group among public school students. The Detroit City Schools are the largest school district in Michigan, with more than 133,000 students in 2005-06. Slightly more than one-third of all black students in Michigan and one-tenth of all Latino students attended Detroit City Schools. Only 0.3% of all white students in Michigan attend Detroit City Schools.

The racial concentration of Michigan students is revealed by examining schools of three different categories: predominately minority schools (50-100% nonwhite students), intensely segregated minority schools (90-100% nonwhite students), and intensely segregated white schools (90-100% white students). Conceptually, 90-100% is used to signify "one-race" schools because schools that are 90% or greater minority students have been shown overwhelmingly to be schools with high concentrations of poor students, and linked to important educational disadvantages. (Frankenberg, Lee, & Orfield, 2003; Orfield & Lee, 2006). Likewise, both 90-100% minority schools and 90-100% white schools indicate only a token presence of whites or non-whites, respectively, in such schools (see Ma & Kurlaender, 2005).

High percentages of black students attend schools with large shares of students of color. In fact, in 2005, a vast majority of black students attended predominantly black and intensely segregated minority schools. 77.5% of all black students attended 50-100% minority schools in 2005-06, and 58% of black students attended intensely segregated minority schools (90-100% minority students). To contextualize these percentages, it is important to note that Michigan has consistently ranked near the top of all U.S. states in terms of the percentage of black students in predominantly and intensely segregated minority schools; in 2005-06, Michigan was ranked as the sixth and third-highest state, respectively, in the percentage of black students in such schools (Orfield & Lee, 2007). In 2005-06, approximately 40% of black students across the country were in 90-100% minority schools. Yet, this national percentage is still almost 20 percentage points lower than the share of Michigan black students in these intensely segregated minority schools.

Notably, among states that have prohibited the use of race in admissions, Michigan has the highest percentage—by far—of black students in racially isolated minority schools (where 90% or more of the enrollment are students of color). This is particularly significant given the fact, as seen above, that Michigan has the *fewest* students of color and thus it would be expected that fewer students would be likely to be in schools with such high concentrations of students of color. Washington, whose

⁸ The racial composition of Michigan's public school enrollment approximates that of the Midwest as a region. In 2005-06, in Midwestern states, 73% of students were white, 15% black, 8% Latino, 3% Asian, and 1% Native American (Orfield & Lee, 2007).

demographics are the closest to Michigan, has the least black segregation on any of the three measures.

**School Racial Isolation of Black Students in
Michigan, California, and Texas
2005-2006**

| | % of Black Students in Schools with 90-100% Non-White Students |
|------------|--|
| California | 40% |
| Texas | 38% |
| Michigan | 58% |

Source: Orfield and Lee, 2007.

The percentage of Latino students in predominantly and intensely segregated minority schools (40%) is substantially lower than the percentage of black students, which is not surprising since Hispanics are a much smaller percentage of Michigan’s public school enrollment. However, there is a consistent trend of increasing percentages of Latino students attending both predominantly and intensely segregated minority schools.

This pattern of racial isolation means that the majority of Black students in Michigan and a significant proportion of Hispanic students are found in a very small number of the state’s high schools. In 2005-2006, only 113 of the state’s 831 high schools were comprised of 90-100% non-white students. In contrast, 60 percent of Michigan’s white students attend schools where white students comprise 90-100% of the student body. Of the state’s 831 high schools, nearly half (406) are 90-100% white. An additional 230 high schools are 50-90% white.

A Percent Plan applied to Michigan’s pattern of racially isolated high schools that would guarantee admission to top-ranked students at each of the state’s high schools would disproportionately favor white students who are much more broadly distributed across a large number of the state’s schools. This is particularly the case because Black and Hispanic students are less likely than whites to fall in the top ranks of their class in racially diverse schools, even when they are in the majority, a Percent Plan would yield a small number of Black and Hispanic students. Moreover, such a plan would not capture the Black and Latino students who attend racially diverse schools and might not be ranked at the top of their class but are nonetheless high-achieving and prepared to succeed at the University of Michigan.

B.3. The small number of Michigan high schools with predominantly URM populations produce relatively few graduates with the academic records that would make them competitive for admission at the University of Michigan. This, in part, results from the high concentration of poverty at racially isolated minority schools. These lower levels of academic performance result, in part, from the differential educational opportunity in Michigan—specifically the ability to meet state standards on assessment tests, qualifying for a state merit aid for college—that are related to the racial and/or poverty composition of a student’s high school. Consequently, race-neutral “Percent Plans” would likely result in the admission of underrepresented minority students with academic preparedness far below that required to succeed in an “elite” university.

One indicator of the lower levels of college readiness provided by schools attended by most of the state’s Black students is the rates at which students in different schools earn Michigan Merit awards.⁹ The Michigan Merit Awards are granted based on student performance on the Michigan Educational Assessment Program (MEAP). The MEAP consists of a series of questions, the purpose of which was to evaluate the teaching of Michigan students with respect to curriculum standards established by the State Board of Education in five content areas: mathematics, reading, science, social studies, and writing.

Fewer students in intensively segregated minority schools have opportunities to learn sufficient to enable them to earn Michigan Merit Scholarships. Specifically, in the high school class of 2006, less than 10% of students in segregated minority schools, on average, received the Michigan Merit Award. By contrast, the average percentage of students who received the merit award in majority white and segregated white schools was more than four times, 39.6% and 42.2%, respectively, the average share of Merit Awardees in schools with 0-10% white students. More than 30% of segregated white schools had a majority of students receiving the Merit Award. At the same time, *none* of the 10-50% white schools and only one 0-10% white school had more than half of their twelfth graders receiving the Merit Award.

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EDUCATION

1980 Ph.D., Education, University of California, Los Angeles
1969 MA, American Studies, California State University, Los Angeles
1964 BA, English, San Diego State University

PROFESSIONAL EXPERIENCE

2001-present Presidential Professor in Educational Equity
Graduate School of Education & Information Studies, UCLA

2001-present Director, University of California's All Campus Consortium on Research
for Diversity (UC ACCORD)

2000-present Director, UCLA's Institute for Democracy Education and Access (IDEA)

1998-2001 Associate Dean for Research and Outreach
Graduate School of Education & Information Studies, UCLA

1994-2000 Director, Center X
Graduate School of Education & Information Studies, UCLA

1994-1998 Assistant Dean for Teacher Education
Graduate School of Education & Information Studies, UCLA

1991-2001 Professor
Graduate School of Education & Information Studies, UCLA

1989-1991 Associate Professor
Graduate School of Education, UCLA

1985-1989 Senior Social Scientist
Education and Human Resources Program,
RAND, Santa Monica, CA

1981-1985 Senior Research Associate
Graduate School of Education, UCLA

RESEARCH AREAS

Dr. Oakes' research focuses on elementary and secondary schooling policies and practices. She is perhaps best known for her studies investigating the effects of ability grouping and curriculum tracking on curriculum content, teaching practices, and classroom processes. Of particular interest have been analyses of the impact of these grouping practices on the learning opportunities of low-ability, poor, and ethnic minority students. Oakes has also investigated state and local efforts to implement “equity minded” education reform, including alternatives to tracking and ability grouping. One study, sponsored by the Lilly Endowment, followed the progress of ten racially mixed secondary schools as they created alternatives to traditional tracking and ability grouping practices. Oakes has also conducted local analyses of tracking and “detracking” in conjunction with four federal desegregation cases. These studies are reported in her widely read book, Keeping Track: How Schools Structure Inequality (Yale University Press, 1985/2005).

In the past ten years, Oakes has launched a new program of research focusing on activists, community-based organizations, and educators who are attempting to build more socially just schools. Some of this work is reported in her 2000 book, Becoming Good American Schools: The Struggle for Civic Virtue in Education Reform—winner of AERA’s Outstanding Book Award in 2001—and in Learning Power: Organizing for Educational and Justice. In 2000, this work evolved into a campuswide program of research and public engagement, UCLA’s Institute of Democracy Education and Access (IDEA) that Oakes now directs. Oakes also directs the University of California’s All Campus Consortium on Research for Diversity (UC ACCORD), a systemwide institute engaged in research on equity and college access in post-affirmative action California.

HONORS

Member, National Academy of Education

Lifetime Achievement Award—California Educational Research Association, 2006

Distinguished Lecture (SIG on Educational Change)—American Educational Research Association, 2006

Distinguished Research Lecture—American Educational Research Association, 2004

Charles DeGarmo Lecture—American Educational Research Association, 2004

John Dewey Society Annual Lecture—American Educational Research Association, 2003

Veffe Milsted Jones Distinguished Lecture—Cal State University, Long Beach, 2003

Jose Vasconcelos World Award in Education—World Cultural Council, 2002

University of California--Presidential Chair in Educational Equity—2001-in perpetuity

American Educational Research Association—Outstanding Book Award 2001

American Association of Colleges of Teacher Education—Margaret Lindsey Award for Research, 2000

American Educational Studies Association (AESA)—Critic’s Choice Award given to Teaching to Change the World, November, 1999

University of South Carolina Museum of Education—Keeping Track: How Schools Structure Inequality selected for Books of the Century Exhibition, 1999-2000

California Council for the Education of Teachers—Educational Quality Award, 1998
Dartmouth College—Rockefeller Distinguished Lecturer, 1998
Education, Power, and Personal Biography: Dialogues with Critical Educators. (edited by Carlos Alberto Torres)—Featured Interviewee, 1998
National Association of Multicultural Education—Multicultural Research Award, 1998
American Educational Research Association—Palmer O. Johnson Award for Outstanding Research Article, 1997
Southern Christian Leadership Conference—Ralph David Abernathy Award for Community Service, 1997
Spencer Foundation—Mentoring Fellowship, 1994-1996
University of Pennsylvania Education Alumni Association—National Award of Distinction, 1995
Center for the Advanced Study in the Behavioral Sciences, Palo Alto, CA—Fellowship (awarded, not yet taken), 1994
American Educational Research Association—Award for Early Career Achievement in Programmatic Research, 1990
American Vocational Education Research Association—Outstanding Journal Article for 1987
Educational Press Association of America—Distinguished Achievement Award for Learned Article, 1987
American School Board Journal—Keeping Track: How Schools Structure Inequality named one of 10 "Must-Read Books for 1985"

SELECTED PROFESSIONAL ACTIVITIES

American Educational Research Association:
Chair- and Chair-Elect, Early Career Achievement Award Committee—2004-2006
Nominations Committee—2003-2005
Chair, Early Career Achievement Award Committee—1998-1999
Editorial Advisory Board, American Educational Research Journal, 1997-2002
Editorial Advisory Board, Education Researcher, 1997-2000
Associate Editor, Education Evaluation and Policy Analysis, 1994-1996
Editorial Advisory Board, Handbook of Research on Multicultural Education (published by Macmillan for AERA in 1992; second edition in 2002)
National Advisory Board Member, Encyclopedia of Educational Research (published by Macmillan for AERA in 1992)
National Advisory Board Member, Handbook of Research in Curriculum (published by Macmillan for AERA in 1992)
Editorial Advisory Board, Review of Research in Education, 1991-1993
Board of Advisory Editors, Review of Educational Research, 1991 - 1994
Chair, Professional Development and Training Committee, 1988-1990
Editorial Advisory Board Member, American Journal of Education, 1987-1990
National Academy of Science (NRC)
Committee on Programs for the Advanced Study of Mathematics and Science in American High Schools, 1999-2001
Panel on National Standards and Assessment in Science, 1992-1996

Reviewer, High Stakes, Report of the Panel on the uses of national testing, 1999
 National Association of Multicultural Education: Editorial Advisory Board, Journal of Multicultural Perspectives—1999-2001.

California State Legislature Joint Master Plan Committee—Chair, Subcommittee on Student Learning, 2001-2003

California Department of Education—Member, Advisory Board, AP Challenge Grants, 2000-2002

U.S. Dept. of Education—Member Hispanic Dropout Project (appointed by U.S. Secretary of Education, Richard Riley), 1996-1998

California Commission on Teacher Credentialing—Advisory Panel for the Development of Teacher Preparation Standards (SB 2042), 1998-2000

University of California—Co-Chair of the Planning Committee for the UC Research Initiative in Education and Equity, 1998-1999; Member Outreach Technical Advisory Panel, 1998-present

UCLA—Member, Outreach Executive Committee, 1998-present

American Civil Liberties Union—Consultant on California students' access to Advanced Placement Courses; expert witness, *Williams v. California*.

United States District Court for the Western District of Pennsylvania, the Commonwealth of Pennsylvania, the Woodland Hills School District, and the plaintiffs and other concerned parties associated with *Hoots v. Commonwealth of Pennsylvania*, No. 71-538—consultant on implementation of the court order, 1996-1998

Lawyer's Committee for Civil Rights Under Law—Consultant on within-school segregation, 1995-present

Center for the Education of Students Placed at Risk, Johns Hopkins University (funded by the U.S. Department of Education), National Advisory Board, 1994-1999.

Coalition to Save Our Children v. State Board of Education, et al., (school desegregation)—Data Analyst and Expert Witness on Ability Grouping, Tracking, and Within-School Segregation in New Castle County Schools, 1994

People Who Care v. Rockford, IL No. 89-C-20168 (school desegregation)—Data Analyst and Expert Witness on within-school segregation, 1993-1994; 1999-2000.

U.S. General Accounting Office—West Coast Advisory Panel, 1993-1996

University of California—Chair, UC Advisory Committee on Professional Programs in Education, 1992-1993, and primary author, Education in Troubled Times: A Call to Action (UC Office of the President), 1993

Vásquez v. San Jose Unified School District, No. C 71-2130 RMW (SJ) (school desegregation)—Expert Witness and Data Analyst on within -school segregation, 1993-1994

The College Board Equity 2000—National Advisory Board, 1992-1998

Common Destiny Alliance, Vanderbilt University and University of Maryland—Co-Director and Member, Board of consulting researchers, 1992-present

National Council of La Raza—National Advisory Committee for Project EXCELMAS, 1992-1996

National Governors' Association—Consultant to staff regarding policy recommendations for the National Education Goals, 1992-1996

- The Public Policy Research Consortium, Chicago, IL—Member, Board of Directors, 1992-1996
- Holmes Group—Member, Equity Critique Panel, 1991-1995
- National Society for the Study of Education—Member, National Board of Trustees, 1991-1994.
- Westview Press—Co-editor (with Henry Levin) of a book series, Renewing American Schools, 1991-1998.
- Other Editorial and Reviewing Services: Jossey-Bass; Yale University Press; Teachers College Press; American Educational Research Journal; American Journal of Education; Educational Evaluation and Policy Analysis; Educational Researcher; Education Policy; International Journal of Qualitative Studies in Education; Review of Research in Education; Sociology of Education; The Carnegie Corporation of New York; The National Science Foundation; RAND; The Spencer Foundation; U.S. Department of Education; Wisconsin Center for Educational Research
- Chicago Panel on School Policy and Finance—National Advisory Panel for monitoring reform in Chicago Public Schools, 1990-1992
- U.S. Department of Education OERI National Center for the Improvement of Science Education—Consultant and Report Co-author, 1988-1991
- National Assessment Governing Board (U.S. Department of Education) and the Council of Chief State School Officers—Consultant regarding the linking of National Assessment of Educational Progress to other national data collection efforts, 1990-1991
- California Postsecondary Education Commission—Advisor to Task Force (education and college preparation in low-income and minority youth), 1988
- French Ministry of Education and the Organization for Economic Cooperation and Development (OECD)—Invited Expert to the 2nd International Conference on the Development of Educational Indicators, Poitiers, France, 1988; Co-author of the OECD proposal to establish an international indicators project; and continuing involvement as a Consultant to the project, 1988-1990
- Quarles v. Oxford, Mississippi Schools* (desegregation)—Expert Witness on tracking and within-school segregation, 1988
- The College Board Equality Project—Advisor to Colloquium on the Status of Black American Education, 1985
- NAACP Legal Defense and Education Fund—Consultant on education policy issues, 1985-present

PUBLICATIONS

Books

- Oakes, J. & Rogers, J. (2006). Learning power: Organizing for education and justice. New York: Teachers College Press.
- Oakes, J. & Lipton, M. (2006). Teaching to change the world, Third edition. New York: McGraw-Hill. (First and second editions in 1999 and 2002)
- Oakes, J. (2005). Keeping track: How schools structure inequality (second edition). New Haven, CT: Yale University Press. (First edition in 1985).
- Committee on Programs for Advanced Study of Mathematics and Science in American High Schools (2002). Learning and Understanding: Improving Advanced Study of Mathematics and Science in U.S. High Schools. Washington, D.C.: National Research Council.
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- Welner, K. & Oakes, J. (2000). Negotiating the politics of detracking: A school leaders' guide. New York: Skylight Publications.
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- Sirotnik, K. A., & Oakes, J. (Eds.). (1986). Critical perspectives on the organization and improvement of schooling. Hingham, MA: Kluwer-Nijhoff Publishing.

Peer-Reviewed Research Monographs

- Oakes, J., Welner, K., and Yonezawa, S. (1998). Mandating equity: A case study of court-ordered detracking in the San Jose schools. California Policy Seminar, University of California.
- Oakes, J. & Wells, A.S. (1996). Beyond the technicalities of school reform: Policy lessons from detracking schools. Indianapolis: Lilly Endowment.
- Oakes, J., Selvin, M., Karoly, L., & Guiton, G. (1992). Educational matchmaking: Academic and vocational tracking in comprehensive high schools. RAND, Santa Monica, CA.

- Oakes, J. (1990). Lost talent: The under-participation of minorities, women, and disabled persons in science. RAND, Santa Monica, CA.
- Oakes, J. (1990). Multiplying inequalities: The effects of race, social class, and tracking on opportunities to learn science and mathematics. RAND, Santa Monica, CA.
- Excerpted in National Science Board (1991) Science and engineering indicators.
Excerpted in J. Bellanca, E. Swartz (Eds.). (1993) The challenge of detracking.
- Selvin, M., Oakes, J., Hare, S., Ramsey, K., & Schoeff, D. (1989). Who gets what and why? Curriculum decision-making at three comprehensive high schools. National Center for Research in Vocational Education, University of California, Berkeley, RAND, Santa Monica, CA.
- Shavelson, R. J., McDonnell, L. M., Oakes, J. (Eds.). (1989). Indicators for monitoring mathematics and science education: A source book. RAND, Santa Monica, CA.
- Oakes, J. (1987). Improving inner-city schools: Current directions in urban district reform. U.S. Department of Education Center for Policy Research in Education, RAND, Santa Monica, CA.
- Shavelson, R. J., McDonnell, L. M., Oakes, J., & Carey, N. (1987). Indicator systems for monitoring mathematics and science education. RAND, Santa Monica, CA.
- Oakes, J. (1986). Educational indicators: A guide for policymakers. Center for Policy Research in Education, RAND, Santa Monica, CA.

Commissioned Research Reports & Papers

- Oakes, J. & Saunders, M. (2007) Multiple perspectives on multiple pathways. 15 research synthesis papers commissioned by the James Irvine Foundation, 2007
- Oakes, J., Lipton, M., & Renee, M. (2006). Democratizing research and policymaking. Paper commissioned for the International Conference on Educational Change, Dublin City University, 2006.
- Oakes, J., Rogers, J., & Blasi, G. (2006) Grassroots organizing, social movements, and the right to high-quality education. Paper commissioned for the Rethinking Rodriguez Symposium on April 27-28, 2006 at the UC Berkeley, Boalt Hall School of Law.
- Oakes, J. (2003) Responding to the state's expert reports: Williams V. State of California. Report prepared in conjunction with *Williams v. California.*
- Oakes, J. & Saunders, M. (2002) Access to textbooks, instructional materials,

equipment, and technology: inadequacy and inequality in California's public schools. Report prepared in conjunction with *Williams v. California*.

Oakes, J. (2002) Education inadequacy, inequity and failed state policy: a synthesis of expert reports prepared for Williams v. California. Report prepared in conjunction with *Williams v. California*.

Oakes, J. & Wells, A.S. (2001) The comprehensive high school, detracking, and the persistence of social stratification. Paper commissioned by New York University, for its Seminar on the Future of the Comprehensive High School.

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Raizen, S. A., Baron, J. B., Champagne, A. B., Haertel, E., Mullis, I. V., & Oakes, J. (1990). Assessment in science education in the middle grades. Report of the National Center for Improving Science Education, The NETWORK, Inc., Andover, Mass.

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McDonnell, L., & Oakes, J. (1989). Creating responsible and responsive accountability systems: Report of the OERI study group on state accountability reporting. Report commissioned by the Office of Educational Research and Improvement, U.S. Department of Education.

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Keating, P., & Oakes, J. (1988). Access to knowledge: Policy issues for states. Report commissioned by the Education Commission of the States.

Oakes, J. (1987). Opportunities, achievement, and choice: Issues in the participation of women, minorities, and the disabled in science. Report commissioned by the National Science Foundation.

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Oakes et al. (1993). Education initiatives for troubled times: A call to action. Report of the Advisory Committee for Planning Professional Programs in Education, University of California.

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Oakes, J. & Rogers, J. (in press). Radical change through radical democratic means: Organizing for equitable schools. International Journal of Educational Change

Oakes, J. & Lipton, M. (2005) "Schools that Shock the Conscience": *Williams v. California* and the Struggle for Education on Equal Terms 50 Years After Brown. Joint Issue of the California Law Review, African American Law and Policy Report, Berkeley Women's Law Journal, Asian Law Journal, and La Raza Law Journal (Law review journals published by Boalt Hall Law School, University of California, Berkeley).

Rogers, J. & Oakes, J. (2005). John Dewey speaks to *Brown*: Research, democratic social movement strategies, and the struggle for education on equal terms. Teachers College Record, 107(9), pp. 2178-2203.

Oakes, J. (2004). Investigating the claims in *Williams v State of California*: An unconstitutional denial of education's basic tools? Guest Editor's Introduction to a Special Double Issue. Teachers College Record, 106(10 & 11), pp. 1889-1906.

- Oakes, J. & Saunders, M. (2004). Education's most basic tools: Access to textbooks and instructional materials in California public schools. Teachers College Record, (10), pp. 1967-1988.
- Oakes, J. (2003). Education inadequacy, inequality, and failed state policy: A synthesis of expert reports prepared for *Williams v. California*. Santa Clara Law Review, 43(4), pp. 1299-1398.
- Oakes, J., Franke, M. L., Quartz, K.H., Rogers, J. (2002). Research for high-quality urban teaching: Defining it, developing it, assessing it. Journal of Teacher Education.
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- Oakes, J. (2001) The governor's teacher scholar initiative: Can UC bring highly qualified teaching to the state's poorest children? Teacher Education Quarterly.
- Oakes, J., Quartz, K.H., Ryan, S. & Lipton, M. (April 2000) Becoming good American schools: The struggle for civic virtue in education reform. Phi Delta Kappan.
- Yonezawa, S. & Oakes, J. (1999). Making parents partners in the placement process. Education Leadership (April).
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- Oakes, J., Serna, I. & Guiton, G. (1997). Introduction. Research in Middle Level Education Quarterly, 20: 1, I-10.
- Oakes, J., Vasudeva, A. & Jones, M. (1997). Becoming educative: Reforming curriculum and teaching in the middle grades. Research in Middle Level Education Quarterly, 20: 1, 11-40.
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