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ADVOCATES FILE SUIT AGAINST UNIVERSITY OF CALIFORNIA FOR DISCRIMINATORY USE OF SAT/ACT IN ADMISSIONS

Students, community groups, school district file suit against UC Board of Regents for use of SAT/ACT for admissions– cite practice as meaningless barrier to higher education for underrepresented minority students and students with disabilities.

LOS ANGELES, CALIFORNIA – December 10, 2019 – Today, lawyers representing four students, six nonprofits and the Compton Unified School District announced lawsuits against the University of California Board of Regents for the UC system’s use of SAT and ACT test scores in admissions decisions. The civil rights lawsuits allege that the UC System is knowingly creating barriers to higher education for students of color and students with disabilities.

Earlier this fall, Governor Newsom acknowledged that the use of the SAT and ACT “exacerbates the inequities for underrepresented students, given that performance on these tests is highly correlated with race and parental income, and is not the best predictor for college success.” In November, UC Berkeley Chancellor Carol Christ similarly called for the University to drop its test score requirement because SAT and ACT scores “really contribute to the inequities of our system.” The UC has long been aware that the scores are meaningless and that they have a discriminatory effect, but it has continued to require them of prospective applicants.

“Today’s legal action finally changes the conversation from a policy one to a legal one,” said Mark Rosenbaum, Directing Attorney at Public Counsel, a nonprofit law firm. “Use of the SAT/ACT is not merely bad policy; it violates the California Constitution and anti-discrimination statutes, and is therefore legally and morally impermissible. Students should not have to endure the stress and expense of preparing for and taking the SAT, and the admissions process should no longer be contaminated by this discriminatory metric.”

Plaintiffs allege that basing college admissions decisions on SAT and ACT scores amounts to deciding students’ future based on their race and socioeconomic status and not on individual merit. They also point to disparities in access to effective test preparation classes and to bias in test design and test-taking conditions that discriminate against students on the basis of their wealth, race, and disability.
"Today's lawsuit against the University of California Board of Regents meticulously documents how the ACT/SAT test score requirement discriminates against low-income, historically disenfranchised minority, and disabled undergraduate applicants," said Bob Schaeffer, Public Education Director at FairTest: National Center for Fair & Open Testing. “The complaint's data and arguments should persuade not only leaders of the University of California but their peers at many other institutions to eliminate reliance on biased and inaccurate standardized exams."

“The SAT has built-in biases that ultimately derail the college aspirations of thousands of hardworking students of color who would thrive in college and make important contributions to the UC community and beyond,” said Lisa Holder, Of Counsel at the Equal Justice Society. “The test serves no purpose other than to act as a barrier to higher education for historically disadvantaged students. The UC Regents have a duty to end this discriminatory practice.”

The Academic Senate is currently considering its use of the SAT and ACT in admissions decisions, as it has done several times in the past two decades, and may offer a recommendation to the Regents next year. “The UC's own top brass and researchers acknowledge that the SAT and ACT are discriminatory, and do not meaningfully measure whether students will graduate,” said Gregory Ellis of Schepers Kim & Harris, co-counsel on the case. “We can’t wait for more 'recommendations' from the UC about the tests - it knows they are improper."

Due to the discriminatory nature of the exams, the SAT and ACT tests have resulted in starkly disparate student outcomes. According to College Board’s 2018 data for students taking the SAT in California, 44% of White students scored 1200 or above, compared to only 10% of Black students and 12% of Latinx students. Although Asian students have the highest scores when grouped together by the College Board, such a grouping masks the demographic diversity of Asian American and Pacific Islander populations and obscures the fact that certain subgroups score much lower than average.

“For our young people from historically marginalized communities, the use of SAT and ACT to judge them and their potential is like educational redlining and causes even more trauma to them,” said Dillon Delvo, Executive Director of Little Manila Rising, one of the organizational plaintiffs in the case. ”

UC standardized testing requirements also present unfair barriers for California students with disabilities. “Societal and institutional discrimination against students with disabilities who dare to request and use the accommodations they need to succeed has risen alarmingly,” said Marci Miller of Marci Miller Advocacy Group, co-counsel on the case. “Until testing accommodations are proven effective and equally accessible to all students who need them, the best way to evaluate students in the admissions process without bias is to eliminate the current testing requirements.”

The growing number and diversity of schools that no longer require SAT and ACT scores—from large research universities like the University of Chicago to liberal arts colleges like Bowdoin and Smith—demonstrates that such scores are not necessary to college admissions decisions.

“It is time for us to pivot — to stop ignoring the research and the harmful impact of not changing what has obviously unequally impacted students who otherwise would excel in college,” said Micah Ali, President of Compton Unified School District and President of California Association of Black School Educators. “I have seen it happen to countless students – their dreams deferred.
No more. Not again. To not make a change is to be complicit in intentional harm that is being perpetuated against our most vulnerable students.”

“I feel like I’m being minimized to a test score. These tests don’t reflect the way that folx like me are leading effective change in our communities that have been historically disenfranchised,” said Kawika Smith, a senior at Verbum Dei High School, and one of the plaintiffs in the case. “The SAT and ACT amplify existing inequities in education by allowing students in wealthy areas to pay for expensive tutors and test prep – opportunities which students in my underserved community could never afford.”

Plaintiffs in Kawika Smith v. Regents include four individual students and six organizations including College Access Plan, Little Manila Rising, Dolores Huerta Foundation, College Seekers, Chinese for Affirmative Action, and Community Coalition.

They are represented by the law firms Public Counsel, Scheper Kim & Harris, Equal Justice Society, and Miller Advocacy Group. Compton Unified School District is represented by Olivarez Madruga Lemieux O’Neill, LLP,

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**About Scheper Kim & Harris:**
Formed in 2004, Scheper Kim & Harris LLP has become one of the leading litigation boutique firms on the West Coast. The authoritative Chambers USA guide has called our firm “A boutique that has quickly grown into a formidable player in the region.” We are proud that our lawyers have distinguished credentials, proven records of success, solid backgrounds in public service, high level prosecutorial and defense experience in public agencies, and remain active in teaching law students and other attorneys.

**About Equal Justice Society:**
The Equal Justice Society (equaljusticesociety.org) is transforming the nation’s consciousness on race through law, social science, and the arts. A national legal organization focused on restoring constitutional safeguards against discrimination, EJS’s goal is to help achieve a society where race is no longer a barrier to opportunity.

**About Miller Advocacy Group:**
Miller Advocacy Group is a special education and disabilities rights law firm whose mission is to improve the access of disabled students to post-secondary education and employment. As a hearing-impaired attorney and a parent of children with disabilities, Marci Miller is dedicated to advancing the rights of students with disabilities and learning differences in education, employment and standardized testing.
About Olivarez Madruga Lemieux O’Neill, LLP:
The attorneys of Olivarez Madruga Lemieux O’Neill have provided unparalleled large firm legal counseling in the fields of contract law, labor and employment, litigation, real estate development, environmental compliance, redevelopment, public agency law, construction law, premises liability, tort law, and legislative advocacy. With over 100 years of collective experience, the firm offers broad based services to meet client needs.