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August 30, 2018

Dr. Carol Christ
Office of the Chancellor
University of California, Berkeley
200 California Hall # 1500
Berkeley, CA 94720-1500

Dear Dr. Carol Chris,

On behalf of the Asian American Coalition for Education (AACE), an alliance of over 100 Asian-American organizations in advancing the cause of equal education rights, I am writing to express our outrage at your statement on steering your university toward becoming a Hispanic Serving Institutions (HSI) during your welcome address on August 20. On account of lack of constitutionality and legality inherent in promoting such a goal of racial quotas, AACE strongly requests the Office of the Chancellor at the University of California, Berkeley to retract this statement:

1. Drafting your institution's strategic plan to become a HSI directly translates into a 25% Hispanic quota in your student population, which is in clear violation of the U.S. Supreme Court decision in *Regents of the University of California v. Bakke* which ruled specific racial quotas as impermissible. Reiterated in the 2003 Supreme Court decision in *Grutter v. Bollinger*, this rule states that: "a race-conscious admissions program cannot use a quota system –it cannot 'insult[e] each category of applicants with certain desired qualifications from competition with all other applicants.'"
2. Fulfilling requirements of a HSI breaches the California Constitution, of which Section I, Article 31(a) states that, "The State shall not discriminate against, or grant 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." This provision was added to the California Constitution via the passage of Proposition 209 in 1996.
3. Such a strategic goal also encroaches Title VI of the landmark Civil Rights Act of 1964 which "prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance" as well as Section I of the Fourteenth Amendment to the United States Constitution that guarantees the equal protection of the laws.

The Ninth Amendment to the U.S. Constitution stipulates that the “enumeration in the Constitution of certain rights shall not be construed to deny or disparage other rights retained by the people”. More recently, the U.S. Department of Education has restored the 2008 policy guidelines on college admissions, which faithfully implement relevant U.S. Supreme Court rulings. Explicitly announcing a goal to make your student population 25% Hispanic greatly hurts the admissions probabilities of other student groups including Asian Americans and does not justify any compelling government interest other than your school’s self-serving interests in prioritizing racial diversity and reducing a structural budget deficit.

There is also a dimension of immorality to your statement as considering the race factor beyond an applicant’s abilities and efforts in a deterministic manner precisely defines racism, regardless of your purported justifications. If anything, becoming a HSI should be a circumstantial result of merit-based admissions practices that examine each applicant’s individualized qualifications, not a preconceived means to an end of diversity. Equating fulfilling the HSI quota with recruiting a racially diverse student body is a narrow and shortsighted interpretation of diversity. Albeit politically correct, assigning racial quotas as a fashionable way to proclaim equity and representation does nothing to address the real root cause behind the lack of racial diversity in college campuses, namely K-12 education failures in too many minority communities. Instead, this will only create undue burdens among Asian American children, for whose equal rights we fight.

The University of California, Berkeley is a public educational institution receiving government financial assistance on both federal and state levels. As such, the university must comply with pertinent federal and state laws as well as relevant government guidance on higher education.

As a national civil-rights organization dedicated to achieving equal education rights for all Americans, we support racial diversity on college campuses. However, such diversity should be primarily accomplished through making improvements in K-12 education for minority and socioeconomically disadvantaged communities, instead of using racial quotas which in essence is a racist zero-sum game. Therefore, AACE urges your office to reverse your illegal and unconstitutional goal of becoming a HSI within 10 years and take corrective actions to ensure your institution’s admissions practices are consistent with pertinent federal laws and the California constitution.

We reserve all our legal rights to take necessary steps against your institution, in order to protect Asian American children’s constitutional rights to equal education.

Sincerely,



Yukong Zhao
President
Asian American Coalition for Education

c.c. Mr. Ken Marcus, Assistant Secretary of Education, The Office for Civil Rights, U.S. Department of Education, 400 Maryland Ave, SW, Washington, DC 20202.