The Diversity Test

By Steven Menashi

"Test use has been a problem area for a lot of colleges," Gary Kelsey, director of admissions at the University of Colorado at Boulder, told The Chronicle of Higher Education in his interview with the board of admissions. The average SAT scores, said he, are not a significant indicator of the "disparate" test scores among black and Hispanic students.

"The use of any educational test which has a significant disparate impact on members of any particular race, national origin, or sex is discriminatory, and a violation of Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972," respectively, unless it is educationally necessary and there is no practicable alternative form of assessment, the guidelines read.

In an "on trial" situation, Anthony Caravella, vice-president for public leadership at Educational Testing Service, which administers the SAT, "To what extent should pure academic merit—test scores and grades—be made the primary basis for admissions and access?"

No one disputes the disparate racial and ethnic impact of the SAT. White and Asian students, on average, score significantly higher than their black and Hispanic peers. College admissions are empirical. The average SAT score of black students is 121 points below that of whites. In 1997, A is 1, 2, 3, 4, 5, and 6, and we can do 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

Contrary to claims of cultural bias in the test, the University of California system fashioned that SAT scores actually over-estimate the grades of black and Hispanic college freshmen by a small margin.

Still, for the past few decades, universities have created an exception to the merit principle in college admissions in order to create ethnically diverse student bodies. At Dartmouth College, according to The Washington Post, the average SAT score of black students is 121 points below that of whites. In 1997, A is 1, 2, 3, 4, 5, and 6, and we can do 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Yet colleges continue to employ the SAT in admissions, even though it is not a reliable indicator of college success, said Mills College Charge, Michelle Hernandez, former assistant director of admissions at Dartmouth College. The average SAT score of black students is 121 points below that of whites. In 1997, A is 1, 2, 3, 4, 5, and 6, and we can do 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Yet colleges continue to employ the SAT in admissions, even though it is not a reliable indicator of college success.

"The United States and Abigail Thernstrom's essay on affirmative action presented data in William Bowen and Derek Bok's pro-affirmative action book, The Shape of the River, they found that only preferential admissions policies could explain why "black applicants with scores around 1200 were nearly as likely to be accepted at Bowdoin and Bowdoin's five institutions as whites with scores of 1500 or better."

At least for public institutions, however, preferential admissions policies for minority applicants are facing increasing scrutiny. Most notable in the Fifth Circuit Court of Appeals' 1996 decision in Hopwood v. Texas—which ended preferential admissions policies in Louisiana, Mississippi, and Texas—delineating "diversity" is not a sustainable goal. The government is the only racially preferential form of student admission. The universities of Michigan and Washington are currently facing similar discrimination lawsuits.

What is more, state referenda have outlawed racial preferences in California and Washington and threaten to do the same in Florida.

In the face of judicial rulings and public opinion, affirmative action advocates have endeavored to find new ways to preserve race-based admissions policies. Among these advocates is Nichol Cantu, Assistant Secretary of Education for Civil Rights. In 1997, Cantu sent to Texas lawmakers the results of an audit from any institution that discontinued race-based college admissions programs. She withdrew the letter after the Justice Department directed her to follow the law under Hopwood, Interestingly unable to preserve dual standards in admissions, Cantu and others have signaled their willingness to eliminate standards altogether. Thus, Cantu's office released the concept, however, the California Board's president insisted he would veto any such plan. As it now stands, that pledge may have ended the Strivers score's chance for imminent implementation.

Yet while the specific Strivers proposal now appears dead, the rationale behind the proposal is very much alive. In effect, ETS has now conceded what its critics have always alleged: The SAT is biased against certain ethnicities and social classes. If ETS's argument, which has not another proposal must somehow be brought in its stead.

In the event that the score does get off the ground (or if a similar proposal does come to fruition in the future), it may suffer the same constitutional problems that fell the affirmative action programs and another on the horizon: it seems that granting exams by race would be as well. ETS officials hope the Strivers score would withstand a legal battle with the defense that they were merely attempting to provide a richer context for SAT scores, and not explicitly giving preference to students of color. That argument, however, is strikingly similar to the defense successfully used by universities wishing to maintain affirmative action.

As might be expected, the critics of Strivers scores or similar proposals are legion. Anti-affirmative action crusader Ward Connerly describes on the grounds that they tell black children that they do not have to perform at the same level as their white counterparts: "All this does is legitimize the stereotypes of black kids and Latinos," says Connerly. "This is creating a profile, saying, "This is all we expect from you as a black kid, personally, I do not believe that the SAT is flawed and argues that certain concessions must be made for disadvantaged children. But ETS should not immediately dismiss all blacks and Hispanics as incapable, he insists, as it seems to have done with the Strivers score.

Jeff Rubenstein, senior director of research at Princeton Review, calls the Strivers score a "Band-Aid" that conceals a larger problem. He contends, "There are people who write for the Washington Post who have done an amazing job."

Yet Rubenstein asserts that using race as a primary factor in scoring exams only reinforces deeply rooted stereotypes against minorities.

Other critics of the Strivers score contend that the SAT is better off without any kind of concession for disadvantages. Once the door for mitigating factors is open, it may never shut. The purpose of the SAT as an objective measure of a student's likelihood for success in college would be lost. The test is simply adding more variables to a victimology index and reinforcing the already too-widespread belief that demography is destiny. And once you start factoring in variables that lead to disadvantage, where do you stop? Should you take into account an applicant's birth order? Her relationship with her parents? The psychologists haven't even gotten into the act yet."
the piano player could never have been more than mediocre as a classical pianist.

CHECK YOUR WORK ON SECTION IN THE TEST.

STOP

Mexican-American Legal Defense and Educational Fund, told The Los Angeles Times. "The civil rights community felt that the discriminatory effects were mitigated by affirmative action. But in places like California, if you use a test that has discriminatory effects, the issue is much more valid."

Before her appointment to the top post at the Education Department's Office of Civil Rights, Cantu herself was MALDEF's regional counsel, in which capacity she sued states and colleges over affirmative action. Many now accuse Cantu of using her authority at the OCR to continue her advocacy efforts. Educational leaders, Cantu's traditional allies in promoting civil rights agendas, were outraged when the new guidelines were released.

"We were stunned. We had no idea that this had been in process for four years," John Cutbirth, vice-president for government relations at the College Board, told The Wall Street Journal. "It is basically a blueprint for litigation against schools, states, and admission offices. And any test that doesn't have equal results by group would trigger an investigation by the Office of Civil Rights."

Stanley Hirsense, president of the American Council on Education, told Cantu that university officials required at least two months to consider the guidelines—a far cry from the four-day comment period initially allotted by the OCR.

"Of greatest concern," he wrote to Cantu, "is the fact that premature release of the documents would cause confusion among our constituents and possibly lead to costly litigation with no ceeding positive achievement."

The guidelines state that, though a test may be race-neutral, its use as a primary basis for admissions is unlawful when minority test scores are below those of whites. In other words, a test is discriminatory because it has a disparate impact on minority groups.

In the guidelines, OCR suggests that schools compile "evidence" to demonstrate the "educational necessity" of tests that have a disparate impact.

Colleges are, as has been proven, demonstrate that the SAT is a reliable measure of academic talent. The guidelines, however, seem to preclude such an argument. The OCR quotes case law to say that if a test predicts that an applicant "is probably going to be a poor student," the school cannot on that basis alone deny that child the opportunity to improve and develop the academic skills necessary to succeed in our society.

Test scores may detect "poor students," then, but to withhold admission to an applicant because of poor academic performance would constitute a denial of educational access and, given the test's disparate impact, illegal discrimination.

"These guidelines undermine the notion of an objective test of student achievement," said Jerry Martin, president of the American Council of Trustees and Alumni. "Ignoring test results will make college admissions more arbitrary and less fair. These guidelines will be a death blow to the idea that individual merit counts."

"The guidelines, if adopted, would have an even worse effect on elementary and secondary schools," added Abigail Thernstrom in the pages of The New York Times.

Even if educational necessity is established, moreover, "the use of the test is still not permissible under Title VI or Title IX if the test is not the least discriminatory practicable alternative that can serve the education institution's educational purpose—and a tough standard to meet especially since colleges have long eschewed any legal obstacles that reduce minority applicants are concerned."

To continue use of the SAT, then, universities "would need to prove not only the test's educational necessity, but that absolutely no other 'valid and reliable' means of assessment is available. There is going to be a chilling effect on schools," said Carnevale. "Many will simply decide it's easier not to use the tests."

"In a sense, tests are on trial," said Anthony Carnevale, vice president for public leadership at Educational Testing Service, which administers the SAT. "To what extent should pure academic merit—test scores and grades—be made the primary screen for admissions and access?"

Examiners test. Racial gaps can exist in the bar exam for lawyers, and the certification means for Certified Public Accountants as well as other professions. Many worry that educational and professional institutions will be subject to legal prosecution if they employ tests of merit in evaluating their applicants.

The release of the guidelines also raises serious questions about the role of the OCR, an executive agency, in performing the judicial function of legal interpretation. The OCR's legal brief represented "a transparent attempt to intimidate colleges" into de-emphasizing the SAT, Linda Chavez, president of the Center for Equal Opportunity, told the House Education and the Workforce Subcommittee on Oversight and Investigations in June—a break from the traditional executive role of law enforcement.

The Congressional hearings focused, however, on the guidelines' threat to admissions standards. The Office for Civil Rights is putting the burden on colleges rather than someone else proving that a test is discriminatory. OCR's legal brief suggested "a transparent attempt to intimidate colleges" into de-emphasizing the SAT, Linda Chavez, president of the Center for Equal Opportunity, told the House Education and the Workforce Subcommittee.

Cantu replied that "yes, the language will change" in the final draft guidelines to be released later this fall. Many are skeptical, however, observing the Education Department's governing desire to preserve racial preferences, whatever the consequences for educational institutions.

Cantu "has made it clear that she intends to expand diversity by just about any means necessary," wrote Nat Hantoff in The Washington Post. Her blueprint for college admissions, however, is an extension of the arguments the education establishment has been advancing all along: that race diversity preserves a social value that outweighs equal opportunity. That notion now threatens to undermine the integrity and mission of their institutions and, for perhaps the first time, the establishment is questioning it.}

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