

# No Affirmative Action for Conservatives

By Timothy A. Canova

In his recent op-ed in the *Los Angeles Times*, my colleague Richard Redding argues that there is a lack of intellectual diversity among faculty members at America's colleges and universities. He claims that political correctness in faculty hiring has taken the form of preferences for demographic diversity based on race, ethnicity, gender, and sexual orientation, resulting in far more liberals than conservatives on faculties. This, he says, undermines the educational experience of students. He could not be more wrong.

Redding's diagnosis of the problem is flawed on a number of important levels. First, he never discusses the problem of self-selection, that many conservatives and libertarians choose moneymaking professions or highly abstract disciplines like mathematical economics rather than English or sociology or anthropology. Most conservatives and libertarians with whom I attended college majored in business or went on to law school, and they almost uniformly scoffed at and ridiculed other majors and careers in the humanities.

Ignoring the problem of self-selection is not a minor omission. To prove racial or gender discrimination in a court of law requires proof of actual discrimination, not simply aggregate numbers that a particular group is underrepresented. For instance, conservatives often argue that African-Americans and Hispanics are underrepresented in colleges and universities not because of any actual discrimination but because of the failures of our K-12 education system. They argue that affirmative action in admissions is inconsistent with meritocracy in the academy. Of course, at the same time they manage to ignore the "legacy admits" that open the uni-

versity doors to the sons and daughters of alumni, particularly those with fat wallets.

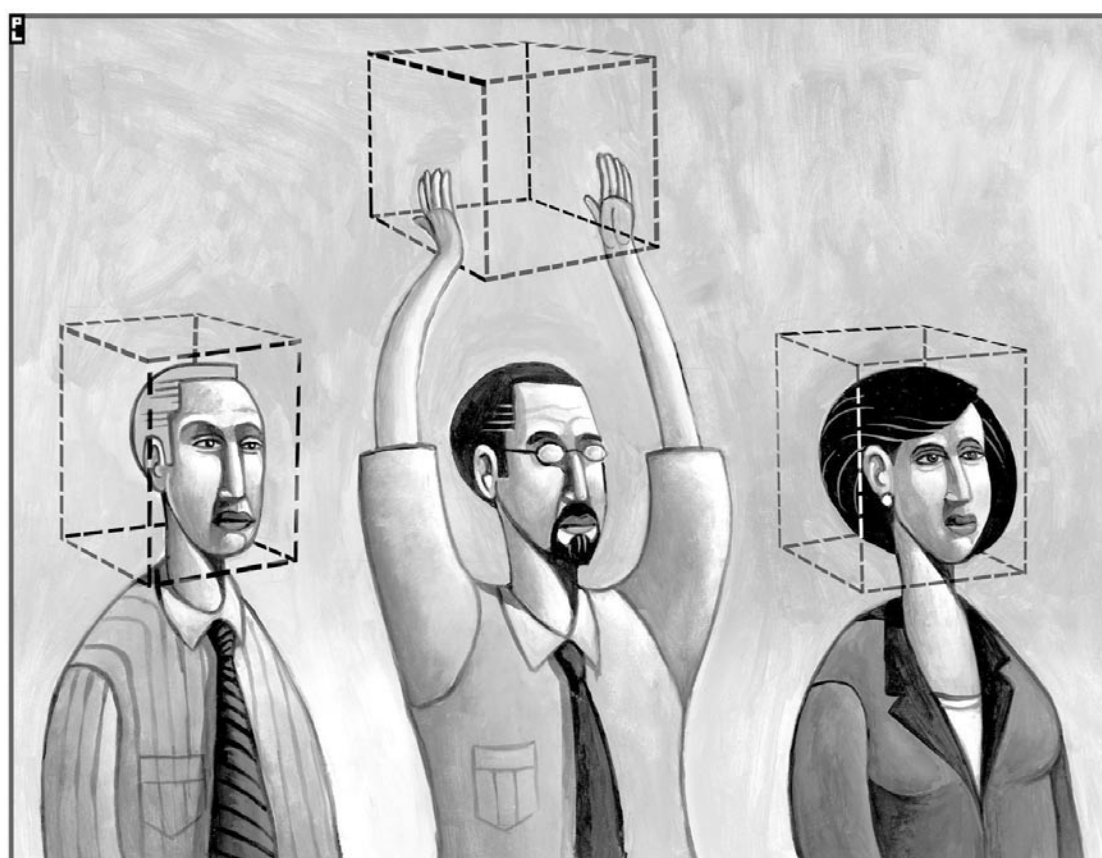
Unlike the underrepresentation of African-Americans and Hispanics in our colleges and universities, the purported underrepresentation of conservatives and libertarians on faculties, to the extent that it exists at all, is largely the result of self-selection. Having served as an associate dean for three years, I read through countless applications and resumes for law teaching positions.

We were not concerned with the politics or ideology of applicants, which were usually not even apparent, if at all, until perhaps the day-long interview stage. Rather, our focus was always on hiring the most outstanding legal scholars and teachers. But my own impression is that a self-selection bias does indeed exist. Apparently, conservative lawyers and law clerks would rather pursue lucrative careers in private law

practice, while more liberal lawyers and law clerks are more likely to be interested in the relatively lower-paid teaching profession. Perhaps psychologists should concern themselves with understanding why people with different political orientations are attracted to different career paths, rather than jumping to assumptions of bias in the academy.

Redding's analysis is also flawed in terms of the lack of ideological diversity in the nation's economics departments, business schools, and in law schools among faculty who teach in the areas of business law, and law and economics. In each of those areas, the lack of diversity is completely counter to what Redding is bemoaning in the humanities. In fact, economics departments, business schools, and law schools are stacked with conservative, libertarian, and orthodox economists and economic lawyers.

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Redding argues that "conservatives and libertarians are becoming increasingly rare in academia, outnumbered by liberals by 3 to 1 even in fields known to be relatively conservative, such as economics." If one defines "liberal" according to party affiliation, and if there are more Democrats than Republicans among these economists, or if there are more liberal economists on such issues as abortion, war in Iraq or Afghanistan, the drug war, or affirmative action, how is any of that actually relevant to their orthodox and conservative views on economics? In economics, the divide has been between orthodox economics (supply-side, rational expectations, efficient market hypothesis, monetarism), on one side, and post-Keynesian and other heterodox economics, on the other side. The field is so skewed toward the orthodoxy that it's not even close. You can probably count on one hand how many economics departments in the country have been safe for post-Keynesians and other heterodox economists (University of Massachusetts at Amherst, University of Missouri/Kansas City, and very few others). The fact is that economics departments and business schools have replicated their conservative and libertarian biases by shutting down graduate programs that teach economic history and theory, while monopolizing their curriculums with mathematical economics that are ridiculously abstract and cut off from economic realities.

Orthodox economics is what created our present economic crisis. Politicians of both parties followed the siren song of free market economics, deregulated financial institutions and markets, cut taxes on the highest income groups, pursued free trade policies with unfree regimes such as China, and undermined the jobs and incomes of middle-income and lower-income Americans for a generation. Yet,

since the crisis, politicians of both parties have responded with bailouts and bonuses for bankers and austerity for everyone else. The trillions of dollars in Federal Reserve subsidies for Wall Street have dwarfed all the stimulus programs for Main Street combined. And yet, the orthodoxy reestablished its will quite swiftly. Instead of receivership for the failure of the biggest banks, they were propped up with bailouts and accounting changes to paper over their losses. Instead of moving away from a Wall Street agenda, there has been a chorus for budget cuts that will punish the victims further.

Redding's article begins with a statement that the lack of intellectual diversity at colleges and universities "hampers the development of innovative solutions to the nation's problems." At a time when our most pressing problems are those dealing with the economy, perhaps there should be some recognition that what's hampering real discourse on these issues is a conservative, libertarian, and orthodox uniformity in economics in most of our nation's law schools, business schools, and economics departments.



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# School Discipline: Targeting Students of Color

By Jory Steele

One day during lunchtime at a middle school in Bishop, a small town in the Eastern Sierra, a 12-year-old Native American boy was playing with his friends on the playground when a police officer posted at the school accused him of violating the school dress code. The boy was wearing a bandana, and he asked if he could put it in his locker rather than turn it over to the police officer. (It had been his grandfather's, who had recently passed away). The officer grabbed the boy, handcuffed him, threw him to the ground, and then stuffed him inside the officer's car.

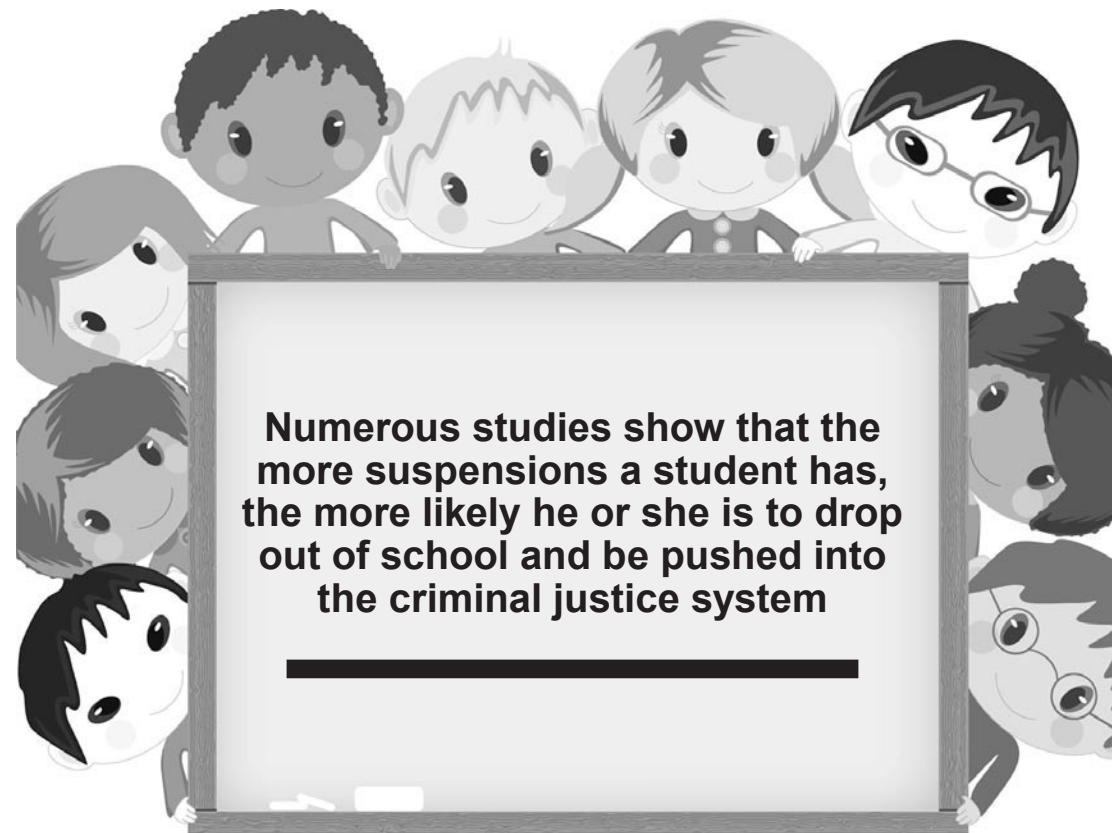
The boy was taken to the police station, issued a citation, and later suspended, along with several other children who tried to come to his defense. The boy had not broken any law. Yet the officer escalated an incident that had no criminal element (why was he enforcing the dress code, exactly?) into a firestorm of overly aggressive discipline.

When the American Civil Liberties Union investigated this incident, we found a long history of harsh disciplinary treatment against Native American students by school officials in Bishop. For the school years 2000-2006, while Native American students were about 17 percent of the student population, they were almost 67 percent of those suspended for being "disrespectful/argumentative." Unfortunately, singling out students of color for overly aggressive discipline is not unique to this school district.

In the Bay Area's Antioch Unified School District, records obtained through a Public Records Act request also revealed extreme disparities in discipline. In one high school, African American students were suspended four times more frequently than white students, and Latino students were suspended twice as frequently as white students during the 2006-2007 school year. Public Records Act requests have illustrated that students of color are experiencing similarly excessive rates of discipline in several different regions of the state, and in other states, including Florida, Mississippi, Connecticut, and Texas.

In incident after incident, the ACLU finds that school officials have overreacted to poor student behavior with discipline that is unnecessarily aggressive, involving law enforcement in ways that often violate their civil rights. Beyond California, national media have begun to report upon the plight of students who are, as the *New York Times* editorialized last year, shipped "off to juvenile court for getting into minor skirmishes or for being unruly or disobedient at school."

The effects of these policies on students are dramatic and heartbreaking. Numerous studies show that the more suspensions a student has, the more likely he or she is to drop out of school and be



pushed into the criminal justice system, creating a veritable "pipeline" between schools and prisons. The disproportionate impact on students of color means that more youth and young adults of color are ending up in the prison system. In effect, these students are being pushed out of school by a system that is failing them at every step.

Indeed, the rates of over-disciplining and over-referral to the criminal justice system have risen at least in part because of the significant increase in police officers on campus.

Targeting students of color for excessive discipline isn't just bad policy. It opens districts up to a host of liabilities. It puts districts at risk of being sued under state and federal constitutions. In California, districts can also be sued for violating the Education Code. Here, schools have a duty not to discriminate and they are required to take affirmative steps to prevent and eliminate discrimination and harassment. Unfortunately, many schools are not doing so.

To be sure, schools are under enormous pressures. Teachers are constantly being asked to do more with fewer and fewer resources, and they face incredible pressure to increase test performance. In such an environment, the impulse to employ "zero tolerance" logic to banish students who appear to be causing problems must be immense.

But what message does it send when students are unnecessarily and unfairly criminalized? And why are we assigning law enforcement officers to police our children? As it turns out, disproportionate discipline does not improve behavior or academic performance. In fact, far from teaching students to behave, removing them from school increases the likelihood that they will drop out of school. Schools with higher discipline rates also fail to perform well academically.

Contrary to its intent, a culture of zero tolerance also hurts those students who remain in school. Unfair punishment makes it difficult to learn to trust adults and authority. Disciplining one race of children significantly more than others encourages all children to mistrust adults and form adversarial relationships with them. No one benefits.

So what can be done to shut down this pipeline? The ACLU has reached settlement agreements over the last several years with officials at school districts in several regions of the state. These agreements have been devised to bring about consistent, systemic, institutional shifts. The goal is to create a new culture in the schools, one that is more inclusive and less prone to isolate, shame and exclude students who belong in school.

Here are some of the key provisions that school districts are required to undertake as a result of

these settlement agreements: Revise districts' contracts with their local police departments to better define and limit (or eliminate) the role of police officers on school campuses; track discipline data so that districts can see where problems arise and take steps to address them; modify disciplinary procedures and policies to comply with both the California Education Code and with best practices standards; strengthen anti-discrimination and harassment policies; provide professional development for staff designed to educate them about how to respond to and prevent inappropriate student discipline; provide professional development to help teachers and staff to intervene effectively when they witness the racial harassment of students by other students, as these incidents are prone to escalation; and revamp curriculum to celebrate the diverse cultures in our society while still meeting state and federal standards requirements.

These settlement agreements were reached almost exclusively without litigation. Avoiding litigation means that cash-strapped districts do not have to spend money on legal fees. Equally important, it means beginning to implement changes now, rather than waiting until the end of a protracted courtroom battle. And finally, avoiding litigation means avoiding the bitterness and resistance to change that can arise when districts view themselves as under attack.

Imagine for a moment the school you would like your child to attend, or the school that you would have liked to attend. Is it filled with police officers who discipline and arrest students for minor infractions? Is it a place where suspension and expulsion rates are off the charts? Do students from a variety of backgrounds feel unwelcome and targeted for unfair treatment?

Schools with overly aggressive discipline are places students want to escape, not places where students can thrive.

The goal of these agreements is to ensure that school is a welcoming and safe place for all students. School should be a place of endless possibility, where students' talents and energies are celebrated and channeled well, a place where the teachers and staff believe it is their job to develop the extraordinary potential of all students.



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