



## RESOLUTION IN SUPPORT OF AFFIRMATIVE ACTION

Endorsed July 2014

**WHEREAS**, the Coalition of Bar Associations of Color (CBAC), organized in 1992, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

**WHEREAS**, the member organizations of the Coalition of Bar Associations of Color are the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA); and

**WHEREAS**, past discrimination based on race, ethnicity, nationality, gender, or disability has left a legacy of limited opportunities for people of color, women, and persons with disabilities; and

**WHEREAS**, Asian Pacific Americans have been the victims of institutionalized discrimination, including laws that prevented only immigrants from Asia from becoming naturalized citizens,<sup>1</sup> imposed unfair burdens specifically on Asian immigrants,<sup>2</sup> prevented Asian immigrants from owning or leasing land,<sup>3</sup> and upheld the segregation of Asian Pacific American school children,<sup>4</sup> among other restrictions; and

**WHEREAS**, current discrimination and unequal access to opportunities based on race, ethnicity, national origin, gender, or disabilities continue to be a pervasive problem in our society; and

**WHEREAS**, affirmative action programs helped open the doors of public and private universities to Asian Pacific Americans in the 1960s and 1970s; and

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<sup>1</sup> *In re Ah Yup*, 1 F. Cas. 223 (C.C.D. Cal. 1878); *Ozawa v. United States*, 260 U.S. 178 (1922); *United States v. Bhagat Singh Thind*, 261 U.S. 204 (1923).

<sup>2</sup> *See Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (finding that onerous licensing ordinance applied only to Chinese-owned-laundries in San Francisco).

<sup>3</sup> *E.g.*, Alien Land Laws enacted in 1913 and 1920 in California and 12 other states, targeting Japanese immigrant farmers.

<sup>4</sup> *Gong Lum v. Rice*, 25 U.S. 78 (1927) (holding that exclusion of Chinese American student from school reserved for white students does not violate Equal Protection).

**WHEREAS**, despite stereotypes to the contrary, many Asian Pacific Americans students – particularly from certain subgroups within the community<sup>5</sup> – continue to face pronounced barriers to educational opportunity; and

**WHEREAS**, Asian Pacific Americans remain underrepresented in various sectors of the American work force and still face under-employment and discrimination based on race and national origin; and

**WHEREAS**, affirmative action continues to keep doors open for Asian Pacific Americans and other groups who historically have been excluded from many sectors of the economy; and

**WHEREAS**, affirmative action facilitates a pipeline to opportunity in areas where communities of color still face barriers, including in the legal profession; and

**WHEREAS**, diversity in the judiciary and the legal profession promotes equal access and protection of all people; and

**WHEREAS**, affirmative action programs that consider race and ethnicity in the context of a holistic, individualized review of each candidate<sup>6</sup> benefits all Americans by expanding opportunity to qualified candidates and creating more diverse environments that enrich learning experiences and help to combat discrimination and divisive stereotypes; and

**WHEREAS**, affirmative action benefits our economy by preparing American students and workers to work together and succeed in an increasingly global economy; and

**WHEREAS**, affirmative action remedies and policies are neither quotas nor mandates to hire unqualified persons, and should also be distinguished from unlawful and discriminatory practices applied toward a particular group.

**NOW THEREFORE BE IT RESOLVED** that CBAC supports programs and policies that seek to promote diversity, remedy past or current discrimination, and/or prevent discrimination from recurring in the future based on race, ethnicity, nationality, gender, or disability; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that CBAC supports the use of affirmative action measures as essential to the process of promoting equal opportunity in the workplace, schools, and other institutions; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, that CBAC supports efforts to ensure that affirmative action programs fully and fairly serve Asian Pacific Americans, other people of color, women, and persons with disabilities, and believes that any evaluation of qualified candidates through specific programs must be fair, balanced, and individualized; and

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<sup>5</sup> For example, disaggregated data reveals that only 67 percent of Cambodian, 65 percent of Hmong, 68 percent of Laotian, and 70 percent of Vietnamese Americans aged 25 and over hold a high school degree or higher. See Asian American Center for Advancing Justice, *Community of Contrasts* (2011).

<sup>6</sup> See U.S. Supreme Court's majority opinion in *Grutter v. Bollinger* (2003).

**NOW THEREFORE BE IT FURTHER RESOLVED** that CBAC opposes efforts such as California's Proposition 209 and other similar laws that seek to limit the consideration of diversity factors, such as race, ethnicity, or sex, in the areas of public education, employment, and contracting; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that CBAC supports affirmative action for the benefits that will inure to society as a whole; and

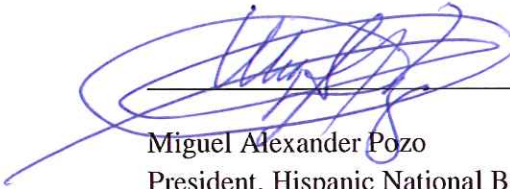
**NOW THEREFORE BE IT FURTHER RESOLVED** that CBAC authorizes its officers and staff to communicate the content of this resolution to other minority bar association members, members of the U.S. Congress, the press, and to whomever else deemed suitable to receive the information; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the legislative priority of the Coalition of Bar Associations of Color until it is withdrawn or modified by subsequent resolution.


**CERTIFICATION**

**WE**, the duly-elected Presidents of the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA), hereby certify that the foregoing Resolution was duly enacted by a duly noticed meeting of the Board of Directors.

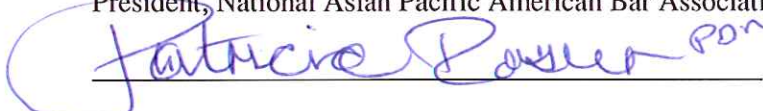


  
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 Miguel Alexander Pozo  
 President, Hispanic National Bar Association

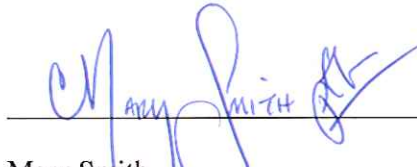
July 15, 2014  
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 Date

  
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 William J. Simonitsch  
 President, National Asian Pacific American Bar Association

July 15, 2014  
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 Date

  
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 Patricia Rosier  
 President, National Bar Association

July 15, 2014  
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 Mary Smith  
 President, National Native American Bar Association

15 July 2014  
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 Date