



Coalition of Bar Associations of Color

RESOLUTION IN SUPPORT OF AFFIRMATIVE ACTION

Endorsed March 2016

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 CBAC 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, the member organizations of CBAC are the national voices of their respective legal communities in the United States and its territories and possessions; 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, communities of color have been the victims of institutionalized discrimination, including, for example, laws that prevented only immigrants from Asia from becoming naturalized citizens,¹ imposed unfair burdens specifically on Asian immigrants,² prevented Asian immigrants from owning or leasing land,³ and upheld the segregation of Asian Pacific American school children,⁴ 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 students of color; and

¹ *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).

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

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

⁴ *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 students of color⁵ continue to face pronounced barriers to educational opportunity; and

WHEREAS, students of color 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 students of color 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 and inclusion in the judiciary and the legal profession promote 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 candidate⁶ 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; and

WHEREAS, the pipeline to a diverse and inclusive legal profession is rife with barriers and while there have been significant strides toward developing a diverse educational pipeline and legal profession, race-based admission policies, and as a result diversity, continue to be the subject of challenge as displayed in *Fisher v. University of Texas at Austin*; and

⁵ 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).

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

WHEREAS, the CBAC organizations filed a joint amicus curiae brief with the U.S. Supreme Court in *Fisher* that discusses the unique perspectives of the communities each bar association represents, and highlights the importance of ensuring access to institutions of higher education from diverse populations.

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

NOW THEREFORE BE IT 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 RESOLVED that CBAC supports efforts, including litigation, to ensure that affirmative action programs fully and fairly serve students of color, in particular women and persons with disabilities, and believes that any evaluation of qualified candidates for specific programs must be fair, balanced, and individualized; and

NOW THEREFORE BE IT RESOLVED that CBAC opposes efforts and laws that seek to limit the consideration of diversity factors, such as race, ethnicity, or gender, in the areas of public education, employment, and contracting; and

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

NOW THEREFORE BE IT RESOLVED that CBAC also supports other efforts and laws that are consistent with this resolution; and

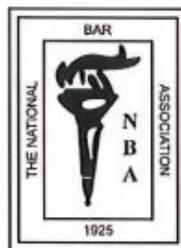
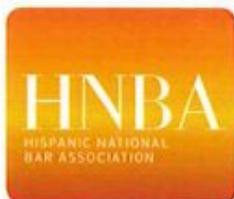
NOW THEREFORE BE IT FURTHER RESOLVED that CBAC authorizes its officers and staff to communicate the content of this resolution to other minority bar association members, members of the U.S. Congress, the Executive Office of the President, the press, and to whomever else CBAC board deems suitable to receive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

NOW THEREFORE BE IT FINALLY RESOLVED that this resolution shall be the policy of CBAC until it is withdrawn or modified by subsequent resolution.

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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.



Robert T. Maldonado

Roberto Maldonado
President, Hispanic National Bar Association

March 1, 2016

Date

Jim Y. Hwang

Jim Hwang
President, National Asian Pacific American Bar Association

March 1, 2016

Date

BCP

Benjamin Crump
President, National Bar Association

March 1, 2016

Date

Linda Benally

Linda Benally
President, National Native American Bar Association

March 1, 2016

Date