

Flourishing in the Belly of the Beast: A California Response

Michael Aldaco
MESA Program/University of California

INTRODUCTION

In November of 1996, 54% of California's voters passed Proposition 209 which, if found constitutional, will eliminate the consideration of race, ethnicity and gender in state-supported education, employment and contracting. As promised, Proposition 209 advocates are working to bring about the same restrictions in other states through legislation and the initiative process. This paper will be of interest to those who anticipate a challenge to institutional outreach efforts that currently utilize race, ethnicity or gender to any degree in the selection of their participants.

The limited focus of the discussion. Though Proposition 209 was on the ballot only in California, the debate about its merits was national in scope. Each side recognized that a favorable outcome would give it the advantage in the broader national battle to come. The discussion was widespread and, with few exceptions, was focused on three distinct areas:

1. The awarding of business contracts to minority/women owned contractors. Most often explored in this area was whether there should be concern for the awarding of a proportion that was set aside or targeted for such contractors. Proponents of 209 argued that contracts targeted in this way were inherently discriminatory against white males and that total job costs were artificially increased. Opponents argued that without such targeting, minority and women-owned businesses would receive only a small proportion of the already small proportion of work not currently awarded to white males.
2. The consideration of race, ethnicity or gender in the hiring decision. Proponents of 209 argued that such consideration was inherently discriminatory against white males, that employers were forced to hire minorities and women because of quotas imposed upon them, and that unqualified persons were being hired over qualified white males. Opponents argued that in those cases where representation of certain groups of workers was low, race should be given some consideration, but only when the person hired was fully qualified to perform the job.
3. The consideration of race, ethnicity or gender in the decision to admit students to colleges and universities. Proponents argued that admission should be based solely on merit, as defined by grades and test scores, and that "lowering the bar" so as to admit unqualified minorities and women was discriminatory against white males and, in some cases, Asian Americans. Opponents argued that diversity on campus, including racial/ethnic diversity, enriches the educational experience of all students and that the minorities and women that have been admitted, rather than being unqualified, were actually highly qualified.

Persons with a concern for institutional efforts that reach out to underrepresented students for the purpose of boosting eligibility for higher education and employability in technology-based companies will notice that these outreach efforts do not fit readily within these three areas of concern. Business contracts are not being awarded; employees are not being hired; and these efforts are not admitting students to a university. The result was an under-attentiveness to race-sensitive outreach programs and the potential impact that Proposition 209 could have on them. It is the author's belief that, properly justified and structured, the case for these outreach efforts represents the best argument against a law like Proposition 209.

The work involved in developing this justification and description of program structure should not commence when the first challenge appears; it should be complete by then. In the section that follows I would like to explore some of the key questions and to offer some perspectives that may be helpful if adopted.

REEXAMINING WHO WE SERVE AND WHY WE SERVE THEM

If you ask just about any MEP Director in the country outside of California to describe who their program serves, you will almost certainly hear that it is only for students from historically underrepresented racial/ethnic groups in engineering. Industry support has been strong for these efforts because of the race-specific nature of their work-force challenge: engineers from these groups are too few in number and the competition to sign them, as a result, is too great. They face no such difficulty when it comes to finding and hiring qualified white and Asian American engineers. Industry recognizes that it faces a race-based problem. Industry support for MEP efforts represents an investment whose return is measured by an increase in the number of graduates and employees from these groups. The logic has been straight-forward: a race-based problem calls for a race-based solution. In nearly all cases, efforts put in place are called the Minority Engineering Program (MEP).

The rationale described above is only as strong as the willingness of the industry partners to speak as one, to the higher educational institutions and the public at large, in support of these special efforts. In California, because of the heated political nature of the 209 discussion and the involvement of so many high profile public officials, such a willingness to step forward on the part of industry did not materialize. This left the institutions nervous about their efforts and forced the programs to reexamine the student targeting policy.

The difficulty with race- or gender-based exclusivity.

Figure 1 presents what has generally been the traditional approach to the issue of who is served by MEP efforts. The approach it describes is race-exclusive and does not factor in individual student measures of disadvantage or socioeconomic status. In effect, if one is from an underrepresented group one is automatically served, and if one is not from such a group, there is no possibility for inclusion.

FIGURE 1

**Traditional Approach to MEP Participant Selection
The vulnerability of being exclusive**

<u>SOCIOECONOMIC STATUS</u>	<u>UNDERREPRESENTED</u>	<u>NOT UNDERREPRESENTED</u>
Affluent/privileged	Served	Not served
Middle-income/class	Served	Not served
Low-income/disadvantaged	Served	Not served

Those whose current student selection policies seem to be reflected in Figure 1 might do well to try their hand at answering the following question:

What is the justification for serving automatically a privately-schooled African American student whose father is a lawyer and whose mother is a doctor and, at the same time, excluding automatically a low-income, southeast Asian immigrant from a single parent household that is supported by welfare?

It is important to note that this question was asked, not just by proponents of 209, but by institutional supporters as well – engineering deans and university presidents and vice presidents looking to see if existing practices were defensible. Neither those being asked nor those asking the question were able to develop what was felt to be a defensible response. This resulted in a clear need to craft a new targeting policy that could be defended.

The difficulty with using socioeconomic criteria exclusively. Proponents of 209 were often heard calling for a new affirmative action; one based on income rather than on race. Figure 2 presents a revised participant selection paradigm based on this premise. In contrast to the paradigm shown in Figure 1, it represents the opposite end of the continuum. Here the only distinction made is based on income.

FIGURE 2

**Revised Approach to MEP Participant Selection
A 209 proponent’s view of the impact of the Proposition (if found constitutional)**

<u>INCOME STATUS</u>	<u>UNDERREPRESENTED</u>	<u>NOT UNDERREPRESENTED</u>
Affluent	Not served	Not served
Middle-income	Not served	Not served
Low-income	Served	Served

To those concerned with the issues of institutional and workforce diversity, this paradigm possesses some severe limitations. Underrepresented students who are qualified to enter colleges and universities are relatively small in number to begin with. Of these, those who are qualified to gain admission to colleges of engineering are, of course, even more scarce. If we further eliminate the underrepresented students who are not from low-income backgrounds, we end up with a policy that serves (in the best case) a few or (in the worst case) none. This could result in MEP efforts that serve low-income white and Asian American students primarily. Whether industry would maintain its support of MEP under these circumstances is unknown but, considering the original problem (few underrepresented engineers hired) it is hard to imagine how industry could justify its investment without prospects for the specific return that it seeks.

A second shortcoming of this exclusive focus on income is that many deserving students with high aspirations, who are not impoverished but also not affluent, would be kept out of the program. Many of the students served by the program now are not “at risk” students, most of whom occupy the lowest rungs of the income ladder. While many “at risk” students do participate in the program (and succeed), MESA/MEP was not established specifically to serve that population. Because MESA/MEP is an academic enrichment program and not remedial, MESA/MEP’s services are academically oriented, geared toward students who need academic help and are ready to work hard in school.

The typical new student to MEP was a pretty good high school student with an A to B average, and likely to earn C’s and B’s in engineering, without support from MEP. Many of their parents are employed in blue-collar and clerical positions. Even though they did not attend a four-year college themselves, they are proud their children have done well enough to gain entrance, they encourage them to do well in school, but are unable to assist them in course material, course selection, study skills, or basic advice on college survival. Because of multiple wage-earners in the household (which often include older brothers and sisters as well as both parents), the total family income could total \$40-70,000 a year, thus categorizing this student as middle-income, rather than low-income, thereby excluding this student from participation.

A compromise position. In June of 1995, after months of discussion and nearly a year and a half before the vote on Proposition 209, California program directors voted to adopt the following language related to the question of who we serve in our pre-college and undergraduate outreach and support efforts:

MESA serves disadvantaged and underrepresented students in math-based fields, with an emphasis on African Americans, American Indians, Mexican Americans and other Latino Americans.

As this language was adopted there was an appropriate degree of sensitivity to the need to be able to respond to two criticisms put forth by 209 proponents. The first criticism, as previously stated, was that needy students were being excluded from programs because of their racial/ethnic background. This paradigm, as shown below in Figure 3, addresses this concern because it provides for full access for all students in the low-income/disadvantaged category, regardless of race. The second criticism was that programs were only serving underrepresented students from

affluent backgrounds. Here again, the paradigm addresses this concern because it clearly eliminates affluent/privileged students from the pool to be recruited to the program, again regardless of race.

FIGURE 3
Revised Approach to MEP Participant Selection
Making the case for race as a factor to some degree
This paradigm expected to rule if 209 found unconstitutional

<u>SOCIOECONOMIC STATUS</u>	<u>UNDERREPRESENTED</u>	<u>NOT UNDERREPRESENTED</u>
Affluent/privileged	Not served	Not served
Middle-income/class	Served	Not served
Low-income/disadvantaged	Served	Served

What is left to explain is the rationale for the use of race/ethnicity in the selection of participants from the middle-income/class group.

Justifying a program’s focus on certain racial/ethnic groups. The following rationale is not meant to replace the industry-oriented argument for work-force diversity in technological areas. In fact, it is most effective when used in combination with it. We have found that when speaking with educational policy makers, this rationale is more successful.

Those unfamiliar with our efforts sometimes erroneously think that our emphasis on serving African American, American Indian, and Latino students reflects an unfair and artificial racial preference for students from these groups. As noted earlier, the reality is that we also serve disadvantaged students from all races. The program has simply sought to be responsive to the encouragement received from the State of California and its industry partners to focus on students from those groups who have eligibility rates for higher education that are substantially below the rate called for by California’s Master Plan for Higher Education.

This Master Plan directs the University of California to calibrate its admissions criteria so that only the top 12.5% of public high school graduates in the state is eligible for admission. The latest eligibility study conducted by the State of California notes the following rates for full UC eligibility: men 11.6%, women 13.3%, whites 12.7%, Asian Americans 32.2%.

In contrast, the same eligibility rates for African American and Latino American students are 5.1% and 3.9% respectively (No eligibility rates have been estimated for American Indian students because of their small population size; however, their participation rate corresponds to those for African Americans and Latino Americans). MESA’s priority has been to focus upon students from these groups so as to increase the number who are admissible to four-year colleges

and universities prepared to study engineering and other math-based fields, and become employed by industry.

The groups we consider “underrepresented” have rates of UC eligibility significantly below the 12.5% called for by the Master Plan.¹ Underrepresentation is not derived from any measure of proportionality within the student population.² Thus, it is most accurate to say that MESA operates on a “rate-attentive” rather than a “race-attentive” basis. Should other groups be found to have rates of eligibility that are substantially below 12.5% (should they become underrepresented), they would join the other groups as a primary focus of the program. Conversely, should the eligibility rate of currently underrepresented groups approach 12.5%, these groups would cease to be part of the primary focus of the program. In this way we can confidently state that we have established no artificial preference for students from any race, ethnicity or gender.

In the absence of a State-sponsored eligibility study, institutional participation rates could be used instead.

If 209 is found to be constitutional. Figure 2 above presents the impact of 209 from the perspective of a proponent of the law. Figure 4 below presents the impact of 209 from the perspective of an opponent of the law. There is no doubt that the loss of ability to consider race/ethnicity to any degree will harm the ability of MEP efforts to serve and graduate underrepresented students in engineering. The best that can be done under these circumstances is to minimize the damage. The key to minimizing the damage is to find additional criteria to consider that allows the program to serve those who would otherwise be eliminated by criteria based solely on income.

FIGURE 4
Revised Approach to MEP Participant Selection
A 209 opponent’s view of the impact of the Proposition (if found constitutional)

<u>DISADVANTAGEDNESS</u>	<u>STUDENTS</u>
Affluent/privileged	Not served
Not disadvantaged	Not served
Disadvantaged	Served

¹ Estimated rates of eligibility are also calculated for each group to the California State University system which is mandated to calibrate its admissions criteria such that only the top 1/3 of public high school graduates achieve eligibility. The MESA pre-college programs promote among students the attainment of full eligibility to the UC system, not because students are expected to enroll at UC, but because this requires a higher level of academic preparation for study, thereby increasing that student’s chances for success at whatever institution the student selects.

² Until the late 1980’s it was common practice to describe enrollment goals in terms of increasing the percent of students from group x to some higher percent. One outcome of the “Asian admissions controversy” (involving UC Berkeley primarily) was a recognition that, so long as the measure of success remained a percent of the total, it was impossible to avoid adopting, as a matter of policy, the goal of decreasing the percentage enrolled from non-underrepresented groups.

If MEP efforts lose the ability to consider race or ethnicity altogether, they will do best to serve only students who are considered “disadvantaged” in some way, as measured by a variety of possible measures, a number of which are not income-based.

In December 1996, California Directors met and developed the beginning of a comprehensive list of potential measures that could be used independently or in combination to determine disadvantagedness. Among the potential criteria to consider are:

- receives Aid to Families with Dependent Children (AFDC)
- income below the median income for families with children (@ \$38,000 in California)
- income at or below 150% of federal poverty (under \$20,000 for a family of 4)
- current or former participant in a federal TRIO program
- current or former participant in a related pre-college program (for MEP)
- student is in the first generation in his/her family that will attain a Bachelors degree
- student is in the first generation in his/her family that will attain a Bachelors degree in a math-based major like engineering
- student attended schools with documented accreditation problems in their math/science offerings (i.e., no Advanced Placement opportunities)
- low orientation to education in the home (i.e., few books, newspapers or magazines)
- student attended schools with average board scores that are at least one standard deviation below average
- parents lack familiarity with the educational system in the United States
- the primary language of the home is different from the primary language of instruction in school
- student was a ward of the court at some point in time
- student did not reside with parent(s) at some point in time (i.e., raised by grandparents or aunt/uncle)
- student from a single parent home

By utilizing these, and other criteria in the assessment of disadvantagedness, we believe it is possible for programs to, perhaps significantly, mitigate the negative effects of Proposition 209.

PERSPECTIVES EXPRESSED BY EDUCATORS IN RESPONSE TO THE THREAT OF PROPOSITION 209

As the discussion around Proposition 209 and its impact took place, many institutions and program directors conducted formal and informal reviews of their respective programs where race, ethnicity or gender played a role. The responses witnessed seem to fall into four categories. Two of these would be considered prepared to resist 209, while the other two sought to avoid the 209 fight by accommodating its provisions prior to its passage. These categories are listed below in the order of least to most accommodating of the language of 209.

1. We serve only underrepresented students and will continue to do so. Damn the torpedoes!

2. We serve all disadvantaged with a primary focus on underrepresented students.
3. We serve only low-income or disadvantaged students and do not consider race or gender.
4. We serve all students who come through the door.

PERSPECTIVES EXPRESSED BY INDUSTRY IN RESPONSE TO THE THREAT OF PROPOSITION 209

Where the 209 discussion took place, particularly as it related to MEP, it was not limited to educators, but included industry representatives as well. Here again, the public industry responses to the threat of 209 fell into four categories as well. Again, they are in the order of being least to most accommodating of the language of 209.

1. We oppose Proposition 209.
2. We support affirmative action (but we are silent on 209)
3. We support diversity in our company (but we are silent on affirmative action)
4. We have no comment.

CLOSING

As of the writing of this paper (February, 1997) there remain many unresolved questions concerning Proposition 209, most important among them is whether it will be found to be constitutional. However, the proposition has resulted in two concrete outcomes.

First, regardless of the final legal fate of the proposition, the political landscape within which MEP efforts must operate has been irrevocably altered in California, and the beginning of a ripple effect can be seen in many parts of the country, including the nation's capitol. While some believe that a court ruling of unconstitutionality will clear the way for a return to business as it used to be, the author does not agree. Adjustments will be necessary for programs to survive if they are prominent or in a location where a majority of the population comes to favor such a law, even if that law is not put into effect.

Second, for those in California, the campaign provided a vehicle to highlight a model program – a program that operates for the public good with a public mandate in mind, with strong private sector support, and across all of the educational segments. The campaign attracted many who sought to be educated about our efforts -- elected officials, representatives from newspapers, radio and television, and even industry. As an ironic result, the number of supporters of the program among the ranks of industry representatives, reporters and politicians is at an all time high.

Despite the political upheaval and the challenges that face us, the author believes that the MESA effort, including the MESA Engineering Program or MEP, can and will flourish. There is no doubt that the proposition presents some very real constraints, but we must recall that MEP is an effort which was spawned by constraints; challenges and limitations are nothing new to the MEP family. The successes of MEP have been due to one thing, something without which nothing

else happens. The people running these efforts are far above average in intelligence, entrepreneurialism, and the ability to think strategically. Program Directors who match this description tend to be successful; they overcome constraints, and they take bad things and turn them into good things. They are why MEP flourished before 209 and they are why MEP will flourish after 209.