

## **Oral Testimony to the Assembly Committee on Judiciary (5/14/2019)**

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*Michal Kurlaender, Professor of Education Policy, University of California-Davis*

Thank you for the opportunity to speak with you today. The goals of my remarks are twofold:

First, I'd like to provide some broader contextual framing for educational inequality in this country (and in this state), which sets the stage for understanding the educational trajectories and disparities in educational attainment by race/ethnicity.

And, second, I will summarize what we know to be the biggest determinants of educational attainment, including graduate study.

### **I. A primer of educational inequality.**

Education is often viewed as an individual pursuit. Educational pathways are marked by a series of choices that individuals make that shape educational destinations—how many honors/AP classes to take, how much to study, where to apply for college, what to major, and whether and where to pursue graduate study. This view permeates our narrative of equal opportunity, of the ideal that if you work hard at school, anyone can end up at an elite school, or become a lawyer, or fill in the blank.

That reality—of individual choice and self-determination, is at best misleading, and, to a large extent simply untrue. In fact, researchers have repeatedly documented the ways in which individual choices are constrained by multiple societal forces and educational institutions that sort youth among unequal pathways of education opportunity. These constrained choices that typify educational pathways from early childhood and into postsecondary and professional

schooling in the U.S. are both explicit and visible, as well as more hidden and less visible barriers.

Students' schooling experiences is the dominant way in which educational pathways are marked. More explicitly, school quality and curricular differentiation sorts students into educational settings that differ by substantive content, pace of instruction, or pedagogical approach. This differentiation starts with access to pre-school environments that promote school readiness, gatekeeping courses in the middle school years, rigorous high school curricula to facilitate successful transitions to post-secondary schooling, and finally successful completion of a college degree with a competitive GPA for admittance to a professional school.

We've made great efforts to equalize some of this differentiation when visible— (i.e. state funded pre-school, our school funding formula, or increasing Advanced Placement offerings in schools that serve socioeconomically disadvantaged students), but in many cases, access to good instruction, or other college preparatory opportunities are less visible, these include, unequal access to such courses within a school, or less encouragement to participate in advanced coursework or college preparatory activities, or lack of exposure to networks of mentors and other professional contacts necessary to access graduate school and career opportunities.

Students are not randomly placed into their educational pathways, but rather their pathways are shaped by both their choices, and importantly, the opportunities that they are exposed to.

The result is that educational pathways tend to self-perpetuate. That is, quality early schooling experiences beget better placement into secondary schooling decisions, and then more intense academic rigor in high school that results in more selective college admissions, and greater likelihood of degree attainment and further professional schooling or labor market success.

A primary way in which educators and policymakers hope to break the self-perpetuating nature of educational pathways and improve mobility between educational destinations is through increased access and opportunities. However, too often we rely on the set of inputs that directly reflect the accumulated advantages and disadvantages that are reflected in that SAT, or LSAT score, or the selectivity of the undergraduate institution. As a result, the racial/ethnic (or SED) gaps on these assessments (standardized tests in particular) are simply holding up a mirror to the inequities in our education system and in society as a whole. So, although higher education (and legal education in this case) may not see itself as responsible for these inequalities, the only way to reduce these inequalities is to equalize educational opportunities earlier in students' educational careers.

## **II. What do we know about the determinants of educational attainment?**

Summarizing a broad and multidisciplinary literature on predictors of postsecondary success, including graduate study, there are three main areas:

- 1) First, Academic Preparation—students exposed to a more academically rigorous course of study are better prepared for the demands of college. This impacts graduate study in several interrelated ways. First, is obviously preparation for law (or other graduate

study) school, which is often poorly understood but proxied by selectivity of the undergraduate institution or college GPA. As students often enter college with unequal preparation many students struggle to maintain a strong enough GPA for competitive graduate study, and/or are simply self-selecting out of graduate study given the negative signals they get from their grades.

- 2) Second, College/Graduate School Knowledge. There are a host of informational barriers that present a challenge to historically under represented groups in postsecondary schooling. These include information about costs and education financing, knowledge of different types of graduate school options, fields of study, and application procedures (to name a few).
- 3) And finally, social-psychological factors. It is hard to do this broad area justice in a few sentences. But in short, navigating college and graduate school can be hard, no matter how well prepared you are academically or how much information you have. And, scholars from across the disciplines have documented the need to cultivate a sense of resilience and self-efficacy necessary for college and graduate school success, which we know is even harder for students who may be the first in their families to go to college or graduate school, and/or may not have many peers or mentors who come from their racial/ethnic or social background.

These three areas are often the target of various pipeline programs that assist undergraduate students from historically underrepresented groups with a host of academic supports; increased information about all aspects of graduate study (application, meeting with faculty to

ask for letters, understanding the profession), and various efforts at self-affirming activities and social belonging experiences—again, all hugely critical, particularly for certain populations.

In sum, higher education—including law school—can disregard what came before, which may seem preferable given the complexity, but most higher education institutions, including law schools, feel some responsibility to address the deep inequities that result in the kinds of admissions profiles that they see. How they do so, however, has important consequences for their current students and for many students to come. Admission is only one aspect of this effort--albeit an important one, but sustained support through graduate study and into the profession requires deeper and earlier investment in improving academic preparation, reducing informational barriers, and cultivating an environment that is inclusive and welcoming to historically excluded and underrepresented groups.