



National Asian Pacific American Bar Association

Statement in Support of Affirmative Action

Endorsed January 2015

WHEREAS, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors and law students, representing the interests of over 40,000 attorneys and nearly 70 national, state, and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

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;

WHEREAS, Asian Pacific Americans have been the victims of institutionalized discrimination, including 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;

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;

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

WHEREAS, despite stereotypes to the contrary, many Asian Pacific Americans students – particularly from certain subgroups within the community⁵ – continue to face pronounced barriers to educational opportunity;

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;

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;

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

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

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;

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.

THEREFORE BE IT RESOLVED, that NAPABA:

1. 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.
2. Supports the use of affirmative action measures which are consistent with the process of promoting equal opportunity in the workplace, schools, and other institutions.
3. Supports efforts, including litigation, 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 for specific programs must be fair, balanced, and individualized.
4. 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.
5. Supports affirmative action for the benefits that will inure to society as a whole.
6. Authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration, the press, and others to take steps to implement this resolution, as they deem necessary.
7. Supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution.

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).

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

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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).