CONSTRUCTING SUCCESS?: ACCOUNTABILITY, PUBLIC REPORTING, AND THE CALIFORNIA HIGH SCHOOL EXIT EXAM

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I. INTRODUCTION

Nearly a half million California students enrolled as tenth graders in the Fall of 2003.[1] These students belonged to the Class of 2006, the first class that would be required to pass the California High School Exit Exam (CAHSEE) as a condition for receiving a high school diploma.[2] In Spring 2004, sixty percent of these tenth graders passed the CAHSEE, leaving almost 200,000 students vulnerable to being denied a diploma because of their test scores.[3] Yet, two years later, officials from the California Department of Education (CDE) declared the CAHSEE a success.[4] The CDE

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1. *See* Cal. Dep't of Educ., California Public Schools – Statewide Report, http://dq.cde.ca.gov/dataquest/StateEnr.asp?cChoice=StEnrGrd&cYear=2003-04&cLevel=State&cTopic=Enrollment&myTimeFrame=S&submit1=Submit (last visited May 7, 2007) [hereinafter 2003-2004 Enrollment Report] (providing statewide enrollment by grade for 2003-2004).

2. Press Release, Cal. Dep't of Educ., Schools Chief Jack O'Connell Announces Final Exit Exam Results for the Class of 2006 Senior Year (Oct. 26, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel130.asp [hereinafter Class of 2006 Senior Year Results].

3. The California Department of Education reported that 295,226 students in the Class of 2006 passed the CAHSEE in the tenth grade. *Id.* at tbl.2. This figure represents 60.2% of the 490,465 students enrolled in tenth grade that year. *See* 2003-2004 Enrollment Report, *supra* note 1.

4. Press Release, Cal. Dep't of Educ., Schools Chief Jack O'Connell Announces More Student Success on California High School Exit Exam (June 1, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel61.asp [hereinafter Student

announced that more than ninety percent of the Class of 2006 had passed the CAHSEE.[5] Indeed, state officials pointed to the results of an informal survey of school districts to argue that only two-to-five percent of the Class would be denied a diploma solely because of the CAHSEE.[6] At the end of 2006, State Superintendent of Public Instruction Jack O'Connell ranked the CAHSEE as the state's top accomplishment in "a great year of achievement."[7] He quipped that "CAHSEE at the bat, [had] score[d] several hits."[8]

This article assesses the CDE's claims of success, explores how California constructed its success story, and considers what this story tells us about high-stakes testing generally. Drawing on evidence from recently released and previously unreleased state data, I argue that state and local officials have created overly optimistic accounts of CAHSEE pass rates. These inflated pass rates, I suggest, result from a series of official decisions that constricted the pool of students counted in the Class of 2006.

I argue that officials presented CAHSEE results in a manner that exaggerated success and downplayed failure. This argument challenges the fundamental narrative of test-based accountability that has driven twenty-six states to have implemented exit exams by 2012.[9] Lacking a robust theory, and resting on often-unarticulated assumptions, the narrative of testing/accountability/improvement presumably works by shining a light on students' performance whereupon some combination of motivation, sanctions, and shame prompts students, parents, educators, and officials to focus energy and attention on the development of core academic skills. In this story, information about test scores promotes school improvement by motivating *everyone* up and down the system to seek public success over public failure. Importantly, this narrative presumes that the public will learn about problems with educational quality by receiving reports of student

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Success].

5. *Id.* at tbl.2.

6. Student Success, *supra* note 4.

7. Press Release, Cal. Dep't of Educ., State Schools Chief Jack O'Connell Reports Top 10 Accomplishments for 2006 (Dec. 27, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel161.asp.

8. *Id.*

9. *See* PATRICIA SULLIVAN ET AL., CTR. ON EDUC. POLICY, STATE HIGH SCHOOL EXIT EXAMS: STATES TRY HARDER, BUT GAPS PERSIST 12 (2005).

failure. If state and local officials communicate this failure, then the public will be galvanized to action, perhaps looking to those same officials for positive results. If the public hears a story of success, then it will call for continued support of the officials and their programs.

This article proceeds as follows. Part II begins with a brief policy overview of the CAHSEE. In Part III, I assess how the CDE and local districts reported on CAHSEE pass rates. Highlighting decisions about defining the Class of 2006, I find that officials undercounted the Class and, as a consequence, overestimated the CAHSEE pass rate. Part IV draws on previously unreleased state data to examine the actual impact of the CAHSEE on high school graduation rates. Comparing graduation figures from 2006 to those from the previous five years, I find that the CAHSEE implementation has coincided with a dramatic drop-off in graduation rates. I estimate that close to 15,000 students did not graduate in the Class of 2006 who would have graduated if trends from the previous years had held up. Part V takes up the question of whether students in all schools were provided with adequate conditions to learn the material on the CAHSEE. I find that students attending schools with low pass rates on the CAHSEE were many times more likely to experience severe shortages of qualified teachers than students who attended schools with high pass rates. In Part VI, I consider what lessons about accountability emerge from the propensity of officials to downplay failure and the persistence of inadequate learning opportunities. I point out that no amount of additional pressure (in the form of attention and motivation) will effect change in schools unless these schools have the capacity to promote high levels of achievement. What is needed, I conclude, is an accountability system that monitors both conditions and outcomes.

II. CAHSEE OVERVIEW

California's Legislature created the CAHSEE in 1999 to ensure that "high school graduates demonstrate satisfactory academic proficiency."[10] The legislation called for the development of an examination covering both English

10. CAL. EDUC. CODE § 60856 (Deering 2000).

Language Arts and Mathematics.[11] It stated that, beginning with the Class of 2004, all California students would be required to pass both sections of the CAHSEE as a condition for receiving their high school diploma.[12] The exam that emerged from this legislation requires students to answer multiple-choice questions (covering both literacy and numeracy skills) and to complete one writing task.[13]

The legislation made clear that school districts must provide the instruction and support needed to "prepare pupils to succeed on the exit examination," calling for districts to provide educational conditions that would "help *all* pupils succeed."[14] This meant, among other things, that districts were expected to provide all students with instruction aligned with the state's curriculum framework that would include, of course, the content areas covered on the CAHSEE.

California high schools first offered the CAHSEE in Spring 2001 to ninth graders in the Class of 2004.[15] In July 2003, the California State Board of Education determined that the state was not ready to fully implement the CAHSEE for the Class of 2004.[16] The Board voted to delay full implementation for two years, leaving the Class of 2006 as the first group of students required to pass the CAHSEE.[17] Subsequent legislation provided waivers to special education students in the Class of 2006 so that they could graduate without fulfilling the CAHSEE.[18]

The Class of 2006 first sat for the CAHSEE as tenth graders in Spring 2004.[19] Students who did not pass both

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11. *Id.* § 60850(a).
12. *Id.* § 60851(a).
13. Cal. Dep't of Educ., CAHSEE Questions and Answers, http://www.cde.ca.gov/ta/tg/hs/info200506.asp (last visited May 7, 2007).
14. CAL. EDUC. CODE § 60853 (emphasis added).
15. Cal. Dep't of Educ., Program Overview: Overview of the California High School Exit Examination (CAHSEE), *at* http://www.cde.ca.gov/ta/tg/hs/overview.asp (last visited May 7, 2007) [hereinafter Program Overview]. In the first year of the CAHSEE administration, the state allowed high schools to offer the exam to ninth grade students. *Id.* This practice was subsequently changed. Since 2002, students first sit for the CAHSEE in the spring of tenth grade. *See id.*
16. *See id.* (stating that the State Board of Education delayed the implementation of CAHSEE as a diploma requirement until 2006).
17. *Id.*
18. CAL. EDUC. CODE § 60852.3 (Deering Supp. 2006) (repealed 2006).
19. Program Overview, *supra* note 15.

sections as tenth graders were provided with several opportunities to retake the CAHSEE in eleventh and twelfth grade.[20] Members of the Class of 2006 who did not pass both sections of the CAHSEE by May 2006, and did not have a waiver due to special education status, were denied a high school diploma in June 2006.[21]

III. CONSTRUCTING PASS RATES

Since the inception of the CAHSEE, the CDE and local school districts have regularly reported the pass rate for the Class of 2006. The state released tenth grade CAHSEE results in August 2004[22] and eleventh grade results in August 2005.[23] It published a series of reports in 2006, tracking the changing pass rate for the Class of 2006 through each testing period.[24] Similarly, California's largest school districts have disseminated reports about how the Class of 2006 has fared locally.[25]

The theory behind this public reporting of test scores is often referred to as test-based accountability or "accountability via transparency."[26] According to this theory,

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20. *Id.* For an overview of rules and regulations related to students retaking the CAHSEE, see *id.*, and Cal. Dep't of Educ., Frequently Asked Questions, http://www.cde.ca.gov/ta/tg/hs/faq.asp (last visited May 7, 2007).

21. *See* CAL. EDUC. CODE § 60852.3; Program Overview, *supra* note 15.

22. Press Release, Cal. Dep't of Educ., O'Connell Releases 2004 STAR and CAHSEE Results (Aug. 16, 2004), *at* http://www.cde.ca.gov/nr/ne/yr04/yr04rel72.asp [hereinafter 2004 STAR and CAHSEE].

23. *See* Press Release, Cal. Dep't of Educ., State Schools Chief Jack O'Connell Releases 2005 STAR Program Results Showing Significant Gains Across the Board (Aug. 15, 2005), *at* http://www.cde.ca.gov/nr/ne/yr05/yr05rel86.asp.

24. *Id.*

25. *See, e.g.*, Press Release, Los Angeles Unified Sch. Dist., LAUSD Announces Latest Results on High School Exit Exam, (Jan. 19, 2006), *available at* http://notebook.lausd.net/pls/ptl/docs/PAGE/CA_LAUSD/FLDR_LAUSD_NEWS/FLDR_PRESS_RELEASES/06CAHSEERESULTS.PDF [hereinafter LAUSD Latest Results]; Press Release, San Diego Unified Sch. Dist., High School Exit Exam Results Released (May 5, 2006), *at* http://www.sandi.net/news/news_releases/2006/0505_cahsee.html [hereinafter San Diego Exam Results].

26. *See generally* Chester Finn, *Accountability via Transparency*, EDUC. WK., April 26, 2000, at 42; Robert L. Linn et al., *Accountability Systems: Implications of Requirements of the No Child Left Behind Act of 2001*, EDUC. RESEARCHER, Aug./Sept. 2002, at 3.

educational outcomes improve with more testing and information.[27] For this theory to hold true, reports of CAHSEE pass rates should provide the public with clear and objective information about the quality of education in schools, in districts, and across the state.[28] Specifically, results from the CAHSEE should communicate the extent to which public schools enable all students to attain a basic level of academic proficiency.[29] Continuing the test-based accountability narrative, schools falling short of this goal should change on two levels. First, the information should motivate individual students, parents, and educators to embrace higher expectations and work harder to achieve educational success.[30] Second, it should create public energy and concern that in turn prompts policymakers to take remedial action to improve schools that fail to produce students with the educational competencies demanded by the state.[31]

The CDE's official account suggests that this "Exit Exam is working as intended."[32] State Superintendent Jack O'Connell has argued that, as a consequence of the CAHSEE, students in the Class of 2006 have received additional support that has enabled almost the entire class to graduate.[33] "Contrary to the fears and dire predictions, fewer students" have dropped out of school[34] and only two-to-five percent of the Class of 2006 did not graduate because they did not pass the CAHSEE,[35] O'Connell claims.

There are plausible explanations for the CDE's unstintingly positive reporting on the one hand, and the near absence of tough-minded criticism on the other. State and district officials have a vested interest in constructing a

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27. *See* Finn, *supra* note 26, at 42; Linn et al., *supra* note 26, at 3.

28. For a description of test-based accountability's place within the No Child Left Behind Act, see John Rogers, *Forces of Accountability?: The Power of Poor Parents in No Child Left Behind*, 76 HARV. EDUC. REV. 611 (2006).

29. *Id.*

30. *Id.* at 619.

31. *Id.* at 633.

32. Press Release, Cal. Dep't of Educ., Schools Chief Jack O'Connell Comments on Year 7 Independent Evaluation of California High School Exit Exam (Nov. 3, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel131.asp [hereinafter Year 7 Evaluation].

33. *See id.*

34. *Id.*

35. Student Success, *supra* note 4.

trajectory of success for their education reforms. Superintendent O'Connell, who authored the CAHSEE legislation as a state senator in 1999, clearly is drawn to presenting evidence that can be construed as the early stage of that trajectory. I am not arguing here that any officials have purposefully misrepresented CAHSEE results. Rather, my point is that overly optimistic reports of CAHSEE performance result from incentives built into the test-based accountability system.

A. *Counting the CAHSEE Pass Rate: Technical Challenges*

The CDE's efforts to report on CAHSEE pass rates faced a significant technical hurdle. The State of California lacks a data system that allows it to track individual students over time.[36] Hence, the CDE's data system cannot determine how many students who began high school in the Class of 2006 graduated four years later.[37] Nor can this system track the performance of individual students across the two sections of the CAHSEE or across different test administrations.[38] Rather than following students longitudinally, the state's official data system only can offer "snapshots" of student enrollment or test performance at particular points in time.[39] To some extent, this is a problem of the state's own making. The CDE, the State School Board, and the Legislature all have known about this problem for several years, and several independent bodies have called for the state to develop fully a longitudinal student data system.[40]

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36. *See* Janet S. Hansen, RAND Corp., *Education Data in California: Availability and Transparency*, *in* INST. FOR RESEARCH ON EDUC. POLICY & PRACTICE [IREPP], CALIFORNIA'S STATE AND LOCAL EDUCATION DATA SYSTEMS 1, 2 (Stanford Univ. 2007), *available at* http://irepp.stanford.edu/documents/GDF/SUMMARIES/Hansen_Springboard.pdf.

37. *Id.* (reporting that the current education data systems do not provide accurate graduation and dropout rates).

38. *See id.* (indicating that California collects discrete, disconnected data that do not lend themselves to integrated analyses).

39. *See id.*

40. In 2002, the California Master Plan for Education acknowledged this shortcoming and called for the state to implement a unique student identifier system. *See* JOINT COMM. TO DEVELOP A MASTER PLAN FOR EDUC., CAL. POSTSECONDARY EDUC. COMM'N, THE CALIFORNIA MASTER PLAN FOR EDUCATION 87 (2002), *available at* http://www.cpec.ca.gov/CompleteReports/ExternalDocuments/2002_FINAL_COMPLETEMASTERPLAN_2.PDF. More recently, the Human Resources

The CDE responded to this technical problem in two ways. First, in its initial reports on CAHSEE pass rate, it offered aggregate information on the number of students who passed each of the sections of the exam.[41] Second, by Fall 2005, the state began using data on student performance collected by the CAHSEE's evaluator, Human Resources Research Organization (HumRRO).[42] HumRRO had access to student tests, and hence was able to track which students passed each section of the CAHSEE by using student last names and birth dates to link different tests to particular students.[43] But lacking the ability to link these tests to a fully functional longitudinal data system, HumRRO was unable to report on pass rates in individual schools or districts. Further, HumRRO's analysis was imprecise. In its own 2005 report, HumRRO acknowledged that its method failed to account for all students.[44]

B. Who Did CDE Count?

In constructing CAHSEE pass rates, the CDE has made a series of decisions about who should "count" as the Class of 2006. These decisions have changed over time, and as a result, so too has the CDE's definition of who constitutes the Class of 2006.[45] With its first reports of CAHSEE results in August 2004, the CDE encouraged the public to focus attention on a subset of the Class of 2006. Superintendent O'Connell hailed the "good news" that seventy-five percent of "last year's sophomores" had passed the English Language Arts section and seventy-four percent had passed the Math section.[46] In fact, these pass rates did not include all of California's "sophomores" from 2003-2004—a figure of

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Research Organization (HumRRO) made a similar appeal in its Year 6 Evaluation Report. LAURESS WISE ET AL., HUMAN RES. RESEARCH ORG. [HUMRRO], INDEPENDENT EVALUATION OF THE CALIFORNIA HIGH SCHOOL EXIT EXAMINATION (CAHSEE): 2005 EVALUATION REPORT, VOLUME 1, at xi (2005), *at* http://www.cde.ca.gov/ta/tg/hs/documents/year6vol1.pdf [hereinafter HUMRRO 2005 Report].

41. *E.g.*, 2004 STAR and CAHSEE , *supra* note 22.
42. *See generally* HUMRRO 2005 Report, *supra* note 40.
43. *See id.* at 65.
44. HUMRRO 2005 Report, *supra* note 40, at 63.
45. *See* 2004 STAR and CAHSEE, *supra* note 22.
46. *Id.*

490,465.[47] Rather, the pass rates were based on the pool of students who sat for the February, March, and May administrations of the Exit Exam in Spring 2004—448,869 students completed the English Language Arts section[48] and 447,110 completed the Math section.[49] If the CDE had reported on all the students enrolled as tenth graders, the pass rate would have been sixty-seven percent for Math and sixty-eight percent for English Language Arts.[50]

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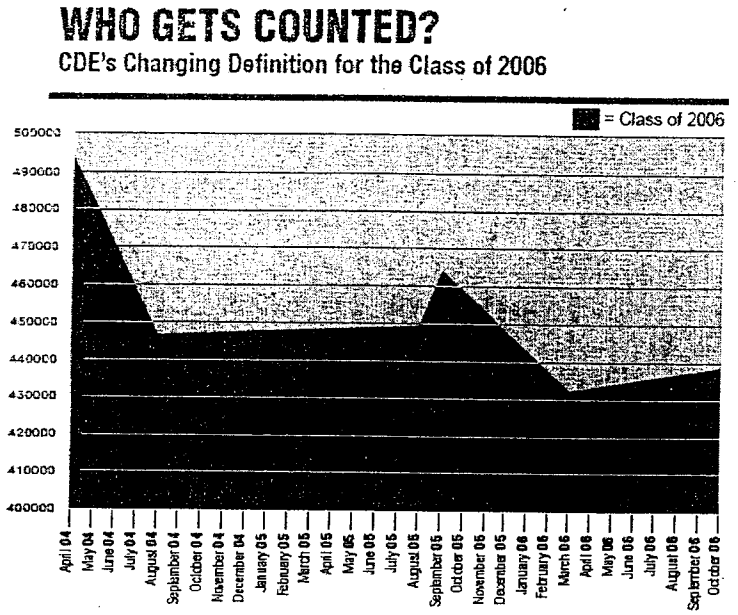
47. 2003-2004 Enrollment Report, *supra* note 1.

48. Cal. Dep't of Educ., California High School Exit Examination: Demographic Summary: English-Language Arts (Combined 2004), http://dq.cde.ca.gov/dataquest/cahsee/ExitProf1.asp?cYear=2003-04&TestType=E&cAdmin=C&tDate=000000&cGrade=&Pageno=1 (last visited May 7, 2007) [hereinafter CAHSEE ELA 2004].

49. Cal. Dep't of Educ., California High School Exit Examination: Demographic Summary: Mathematics (Combined 2004), http://dq.cde.ca.gov/dataquest/cahsee/ExitProf1.asp?cYear=2003-04&TestType=M&cAdmin=C&tDate=000000&cGrade=&Pageno=1 (last visited May 7, 2007) [hereinafter CAHSEE Math 2004].

50. Percentages are based on 329,225 students passing the English Language Arts section and 335,026 students passing the Math section in Spring 2004. CAHSEE ELA 2004, *supra* note 48; CAHSEE Math 2004, *supra* note 49. A plausible case could be made that the tenth grade enrollment figure of 490,465 does not include the full Class of 2006. We know from the CDE's data system that 520,287 students enrolled as ninth graders in 2002-2003. Cal. Dep't of Educ., California Public Schools – Statewide Report, http://dq.cde.ca.gov/dataquest/StateEnr.asp?cChoice=StEnrGrd&cYear=2002-03&cLevel=State&cTopic=Enrollment&myTimeFrame=S&submit1=Submit (last visited Apr. 15, 2007) (providing statewide enrollment by grade for 2002-2003). By some measures, these 520,287 students should be considered the Class of 2006. But, this group includes both first-time ninth graders and an unknown number of students who enrolled as ninth graders in previous years. Given this fact and the limitations of California's data system, I will use the tenth grade enrollment to represent the Class of 2006.

Figure 1.



A year later, the CDE announced that the cumulative pass rates for the Class of 2006 had "exceeded projections."[51] By the end of eleventh grade, the CDE asserted, eighty-eight percent of the Class of 2006 passed each of the two sections.[52] An ebullient O'Connell declared:

> I have always known that our students could rise to the challenge of higher expectations . . . I am proud of the ongoing rate of student success thus far on the exit exam. . . . [A]t this pace, we are on track toward a passage rate close to the same percentage of students that now fulfill all other requirements to receive a high school diploma.[53]

This claim was based on a new understanding of who made up the Class of 2006. The CDE's count of the Class of 2006 now was based on the sum of all successful exams in English Language Arts and Math across all test administrations in tenth or eleventh grade, *plus* the number of students who sat

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51. 2004 STAR and CAHSEE, *supra* note 22.

52. Press Release, Cal. Dep't of Educ., Schools Chief Jack O'Connell Releases 2005-06 California High School Exit Exam Results (Aug. 22, 2006), http://www.cde.ca.gov/nr/ne/yr06/yr06rel93.asp [hereinafter 2005-2006 Results] (noting that eighty-eight percent passed the Math section, while eighty-nine percent passed the English Language Arts section).

53. *Id.*

for each section in Spring 2005, but did not pass.[54] This method for counting reduced the Class of 2006 in two ways. First, it neglected to account for the fact that the total numbers of students who did not pass the CAHSEE in Spring 2005 included students who failed the English Language Arts section as well as students who failed the Math section (by presenting separate pass rates for each section,[55] the CDE ignored this important fact). Second, at least three groups of students were excluded from this count: (a) students who were absent during the spring exam administration; (b) students who chose not to sit for the spring exam; and (c) students who left school sometime after being enrolled as tenth graders in 2003-04.[56] If the CDE had counted these groups, the pass rate would have been eighty percent for Math and eighty-one percent for English Language Arts—or approximately 40,000 non-passing students not accounted for in the CDE's public estimates.

Beginning in Fall 2005, CDE used HumRRO's figures to determine an overall pass rate for the Class of 2006. This shift initially lowered the state's reported pass rate from the August claim of eighty-eight percent on each section to a September claim that seventy-eight percent had passed both sections. By March, the CDE again reported that eighty-nine percent of the Class had passed the CAHSEE.[57] The state

54. Press Release, Cal. Dep't of Educ., Schools Chief Jack O'Connell Releases 2004-05 California High School Exit Exam Results, at tbls.1 & 2 (Aug. 15, 2005), *at* http://www.cde.ca.gov/nr/ne/yr05/yr05rel87.asp (indicating that estimated enrollment in the Class of 2006 included "the number of grade 11 students who did not pass . . . part of the CAHSEE during the spring 2005 administration.").

55. See *id.* for a presentation of the separate passage rates.

56. Whereas the CDE chose not to count un-enrolled students as members of the Class of 2006, it did count an unknown number of students as "passers" who dropped out of California schools before the end of eleventh grade. As noted above, the CDE's data system does not allow the state to track the progress of individual students. Hence, the state could not exclude from its pool of "passers" students who dropped out or moved out of California. For example, in August 2005 the state created its count of Math "passers" by adding the number of tenth grade students who passed the Math section of the CAHSEE in Spring 2004 with the number of eleventh grade students who passed the Math sections in Fall 2004 and Spring 2005. While some of the students who passed the Math section left California's high schools, they were still counted in the pool of Math "passers."

57. Press Release, Cal. Dep't of Educ., State Schools Chief Jack O'Connell Releases New Figures on Students Passing Exit Exam (Mar. 28, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel29.asp [hereinafter New Passage

highlighted the fact that this increase resulted from a large group of students who passed the CAHSEE in fall of their senior year.[58] Yet, it neglected to point out that its count of the Class of 2006 had shrunk yet again. The CDE's count excluded both 22,237 special education students who no longer needed to fulfill the CAHSEE requirement[59] due to the Chapman settlement[60] as well as an unknown number of students who lacked sufficient credits to be considered as seniors even though they previously had been members of the Class of 2006. If the entire class who enrolled as tenth graders in 2003-04 were counted, the pass rate would have been seventy-eight percent.

In October 2006, the CDE announced that 400,163 students in the Class of 2006 had passed the CAHSEE—a final pass rate of 91.4%.[61] This figure included students who passed the CAHSEE during the summer of 2006—and hence graduated after the majority of their class.[62] The total number of "passers" represented eighty-two percent of the original cohort of tenth graders.[63]

Figures].

58. *See id.*

59. CAL. EDUC. CODE § 60852.3 (Deering 2000) (repealed 2006).

60. *Chapman v. Cal. Dep't of Educ.* sought to delay the consequences of the CAHSEE for students of disabilities in the Class of 2006. *See* Press Release, Cal. Dep't of Educ., State Schools Chief Announces Legislative Solution to Dispute over Special Education Students Taking the High School Exit Exam (Jan. 19, 2006), *at* http://www.cde.ca.gov/nr/ne/yr06/yr06rel8.asp. In January 2006, parties to the case agreed to settle the lawsuit pursuant to the enactment of legislation that allowed students with disabilities in the Class of 2006 to graduate even if they had not passed the CAHSEE. *See* S.B. 517, 2006 Leg. (Cal. 2006).

61. Class of 2006 Senior Year Results, *supra* note 2.

62. *See id.* (reporting numbers that include students sitting for the July 2006 administration).

63. The CDE argues that it excludes students from its pass rate who no longer are in school, and hence have no chance to graduate. Yet, if California had a longitudinal data system, it is likely that we would find that a substantial number of the students the CDE counts as "passers" were no longer enrolled as seniors as of June 2006. The CDE reports that 423,289 students were enrolled as twelfth graders in October 2005. Cal. Dep't of Educ., Statewide Enrollment Reports: 2005-2006, *at* http://dq.cde.ca.gov/dataquest/StateEnr.asp?cChoice=StEnrGrd&cYear=2005-06&cLevel=State&ctopic=Enrollment&myTimeFrame=S&submit1=Submit (last visited Apr. 16, 2007). This figure is considerably smaller than the total number of twelfth grade students acknowledged by the state: (a) passers (400,163); (b) non passers (37,755); and (c) special education students who received waivers (22,327). Class of 2006 Senior Year Results, *supra* note 2; New

C. District Reporting

Although most districts in California lacked sufficient assessment and communications infrastructure to release reports on CAHSEE pass rates, a few of the state's largest districts presented local data to their communities. These district reports tended to follow the CDE in offering an optimistic view of CAHSEE pass rates by shrinking who was counted in the Class of 2006. For example, Fresno Unified and Oakland Unified each reported in Spring 2006 that over ninety percent of their senior class had passed the CAHSEE, despite the fact that enrollment for the Class of 2006 in both districts had constricted by one-third between Fall 2003 and Fall 2005.

Figure 2 shows how the Los Angeles Unified School District constructed a narrative of CAHSEE success by gradually reducing the number of students counted in the Class of 2006.[64] While the district enrolled more than 50,000 students as tenth graders in 2003-2004, it accounted for fewer than 30,000 in determining its pass rate in 2006.[65] The district's public representation of success was presented most strikingly on January 19, 2006, when Superintendent Roy Romer traveled to Garfield High School to release the district's new pass rate. After congratulating the students who passed the exam as seniors, Romer noted that almost all of Garfield's senior class had fulfilled the CAHSEE requirement. Romer announced that only fifty-one seniors still needed to pass the English Language Arts Exam and only twenty-five seniors needed to pass the Math section.[66] Superintendent Romer did not mention that Garfield Class of 2006 had decreased in size from 1352 in 2003-04 to 590 in 2005-06.

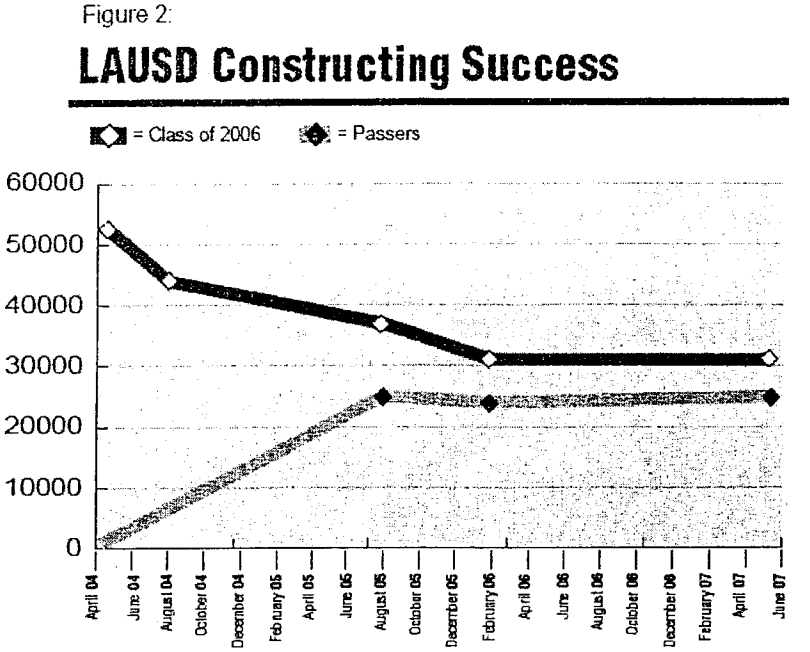
Passage Figures, *supra* note 57 (reporting that 22,327 special education students were exempted, under S.B. 517, for one year from passing CAHSEE). One plausible explanation for this discrepancy of 36,866 students is that tens of thousands of California students who passed the CAHSEE as tenth or eleventh graders were not enrolled as twelfth graders in the 2005-06 school years.

64. *See infra* fig.2.

65. *See infra* fig.2.

66. LAUSD Latest Results, *supra* note 25.

Figure 2:



IV. CAHSEE'S IMPACT ON GRADUATION RATES

The efforts of state and local officials to construct positive accounts of pass rates reflect, in part, a desire to persuade the public that the CAHSEE would not have a significantly negative impact on the number of students who graduate from high school. The high school diploma continues to matter—both symbolically and in terms of earning power. For many youth, it represents a successful culmination of formal schooling. Researchers have found that students who lack a high school degree earn about one-third less than high school graduates.[67] Hence, it is significant that Superintendent O'Connell argued in August 2006 that the state was "on track toward a passage rate close to" the current graduate rate.[68]

To assess these claims, I have analyzed recently released graduation data for the Class of 2006 alongside graduation data for the past decade.[69] The CDE reports a graduation

67. GARY ORFIELD ET AL., LOSING OUR FUTURE: HOW MINORITY YOUTH ARE BEING LEFT BEHIND BY THE GRADUATION RATE CRISIS (2004).

68. 2005-2006 Results, *supra* note 52.

69. The following analysis is based upon publicly available data from the

rate of 67.1% for the Class of 2006; 349,105 students graduated out of an original ninth grade cohort of 520,287. By comparison, over the five previous years, the average graduation rate was 70.2%. California's Class of 2006 had the lowest graduation rate of any class since 1997.

While graduation rates fell in 2006 for all California students, the decline was highest for Latino and African American students. Between 2001 and 2005, the Latino graduation rate in California averaged 59.3%, and the African American graduation rate averaged 59.1%. In 2006, Latino graduation rates fell 4.3% to fifty-five percent, and African American graduation rates fell 3.4% to 55.7%. By way of contrast, the graduation rate for White students fell one percent to 77.3%.

Figure 3:

California Graduation Rates 1997-2006

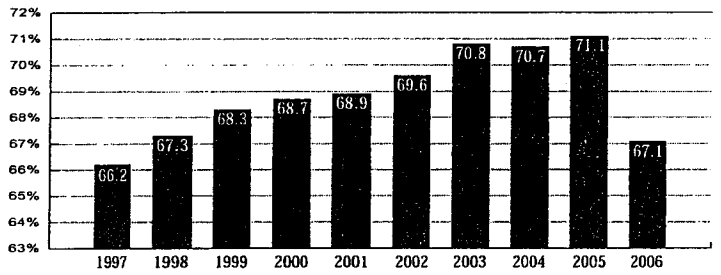
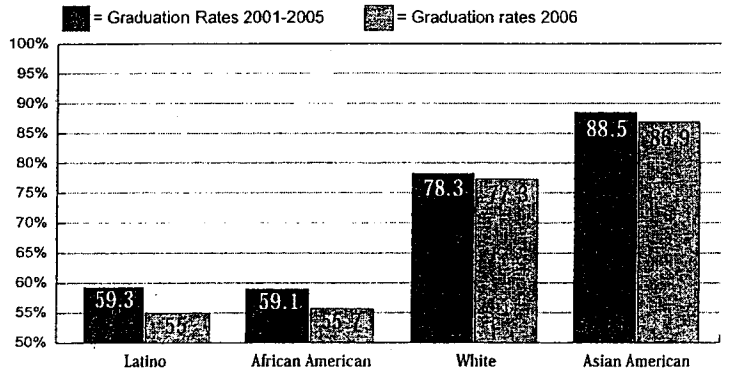


Figure 4:

California Declining Graduation Rates by Race



The overall drop of 3.1% in California's graduation rate in 2006 translates to a decline of some 15,000 graduates.[70] Even before 2006, California's graduation rate was below the national average. The National Center for Educational Statistics compares graduation rates across states by dividing the total number of graduates in a given year by the average number of students enrolled in eighth, ninth, and tenth grades 3, 4, and 5 years earlier.[71] In 2004, this formula yielded a national graduation rate of seventy-five percent and a California graduation rate of 73.9%.[72] That year, California's graduation rate placed it thirty-ninth of all states. If the graduation rates of other states have held constant since 2004, then California's graduation rate for 2006 would place it forty-fifth of all states.[73]

V. OPPORTUNITIES TO CONSTRUCT SUCCESS

In addition to constructing optimistic accounts of CAHSEE performance, state officials also have developed explanations for why some students continue to fail the exam. Superintendent O'Connell consistently combines his broad praise for CAHSEE success with expressions of concern for the persistent "achievement gap"—whereby white, middle-class students outperform low-income students of color and English Learners.[74] Educators can eliminate these gaps, O'Connell suggests, by working harder and smarter; "[W]e must raise our expectations and improve our approach to assisting these students."[75] While O'Connell brings much-needed attention to the problem of inequitable outcomes through his focus on the achievement gap, he does so in a way that downplays structural causes of educational failure. That is, his comments do not address the unequal opportunities

70. California's 2006 graduation rate would have been significantly lower if the State had not granted special education students waivers, allowing them to graduate even though they had not passed the CAHSEE.

71. Jennifer Laird, et al., *Dropout Rates in the United States: 2004* Washington D.C., U.S. Department of Education: NCES 2007-024, (2006), at 29-31.

72. *Id.*

73. *Id.*

74. Year 7 Evaluation, *supra* note 32.

75. *Id.*

that prevail across California's public schools that undermine students' ability to learn the material assessed on the CAHSEE. The next section examines the distribution of opportunities across California's schools and the relationship between schools with inadequate conditions and schools with high failure rates on the CAHSEE.

A. *Opportunities to Learn and the CAHSEE*

The legislation creating the CAHSEE called on school districts to provide conditions needed for "pupils to succeed on the exit examination."[76] California has defined these conditions as high quality, standards-based instruction and support.[77] This definition is in keeping with California's broad commitment to standards-based reform. Since the early 1990s, California has sought to use its nationally recognized content standards as the fulcrum for enhancing educational improvement. In theory, this means providing all students access to teachers trained in the content standards as well as curriculum and instructional materials aligned with the standards and then monitoring their learning through standards-based assessments.[78]

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76. CAL. EDUC. CODE § 60853(a) (Deering 2000).

77. California's Exit Exam legislation established the centrality of standards-based instruction to the CAHSEE. Section 60850 of the California Education Code declares that: "The examination shall have instructional and curricular validity." *Id.* § 60850(e)(3). This section of the Education Code defines instructional validity as assessing content that "is expected to be taught" and curricular validity as assessing content that is "consistent with the state's adopted curriculum frameworks." *Id.* §§ 60850(f)(3)-(4). The California Department of Education articulated this idea in its early communications with the public. The CDE's 2002 Parent Notification Kit told parents that their children must "demonstrate competency in state content standards for reading, writing, mathematics" in order to pass the CAHSEE. CAL. DEP'T OF EDUC., ATTENTION PARENTS: INTRODUCING CALIFORNIA'S NEW GRADUATION REQUIREMENT . . . THE CALIFORNIA HIGH SCHOOL EXIT EXAMINATION (2002), *available at* http://web.archive.org/web/20030507093322/www.cde.ca.gov/statetests/cahsee/resources/packets/parent/assist023.pdf. The CDE went on to advise:

> Parents should ask their student's teachers or principal if the school's curriculum is aligned to the state standards in English-language arts and mathematics. Parents should ask: How the school is implementing state standards into classroom instruction at all levels. How teachers are helping students achieve these standards.

Id.

78. *See* Linda Darling-Hammond, *Inequality and the Right to Learn: Access to Qualified Teachers in California's Public Schools*, 106 TCHRS. C. REC. 1936,

In recognition of this model, the CDE's Standards and Assessment Division published a "Preparation Checklist" to guide districts in their implementation of the CAHSEE.[79] This checklist offered districts a set of questions for determining "a high school site's readiness to administer the High School Exit Exam and for insuring that all students have an opportunity to learn."[80] Several questions on the checklist call on district officials to certify that the school's faculty is fully credentialed, well trained, familiar with the standards, and teaching to the standards.[81] Other questions ask officials to certify that the school is prepared to identify, and provide an array of supports to students at risk of not fulfilling the CAHSEE requirement.[82] HumRRO similarly acknowledged the central importance of these conditions to successful implementation of the CAHSEE in its annual reports. For example, HumRRO's Year 1 Evaluation Report calls on districts and schools to: "(1) Implement or improve instruction that covers the state content standards; (2) Ensure that teachers are well prepared to deliver this instruction; (3) Demonstrate that all students have access to this instruction."[83]

B. Unequal and Inadequate Opportunities

In May 2000, a coalition of civil rights organizations across California filed *Williams v. California*,[84] claiming that many schools across the state failed to fulfill their constitutional obligation to ensure equal and adequate

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1956 (2004); William S. Koski & Hillary Anne Weis, *What Educational Resources Do Students Need to Meet California's Educational Content Standards? A Textual Analysis of California's Educational Content Standards and Their Implications for Basic Educational Conditions and Resources*, 106 TCHRS. C. REC. 1907, 1920 (2004).

79. Cal. Dep't of Educ., High School Exit Exam: Opportunity to Learn (Apr. 17, 2002), *at* http://web.archive.org/web/20030210160104/http://www.cde.ca.gov/shsd/asr/opptolearn/.

80. *Id.*

81. *Id.*

82. *Id.*

83. LAURESS WISE ET AL., HUMAN RES. RESEARCH ORG. [HUMRRO], HIGH SCHOOL EXIT EXAMINATION (HSEE): SUPPLEMENTAL YEAR 1 EVALUATION REPORT (2000), p. 67, http://www.cde.ca.gov/ta/tg/hs/documents/year1sup.pdf.

84. Williams v. California, S.F. Super. Ct., Case No. 312236 (filed May 17, 2000).

education to all students.[85] The plaintiffs in that case argued that California did not provide more than one million students—mainly low-income students, immigrant students, and students of color—the basic tools of a decent education.[86] The *Williams* case pointed out that many schools have severe shortages of credentialed teachers' inadequate learning materials, such as textbooks, and overcrowded and substandard facilities.[87] These claims were supported with ample evidence. For example, a 2004 study, based on state data and a state-wide survey of California teachers, documented that 1 million California students attended schools with severe shortages of uncredentialed teachers and high teacher turnover, and 2 million California students attended schools that lacked enough standards-based textbooks for students to take home for homework.[88] In August 2004, Governor Arnold Schwarzenegger announced a settlement of *Williams*, acknowledging these problems and pledging to create new standards to help monitor access to decent school conditions.[89] The settlement took effect in January 2005[90]—as the Class of 2006 was entering the second semester of eleventh grade.

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85. *See* Press Release, ACLU of N. Cal., Civil Rights Groups Back in Court on Landmark Education Case (Feb. 8, 2001), *at* http://www.aclunc.org/news/press_releases/civil_rights_groups_back_in_court_on_landmark_education_case.shtml.

86. *See id.*

87. *See id.*

88. LOUIS HARRIS REPORT ON THE STATUS OF PUBLIC SCHOOL EDUCATION IN CALIFORNIA (2004), p. 14 *available at http://idea.gseis.ucla.edu/publications/harris/images/Harris.pdf.* For related analysis, *See* JEANNIE OAKES ET AL., INST. FOR DEMOCRACY, EDUC. AND ACCESS, UNIV. OF CAL., LOS ANGELES, SEPARATE AND UNEQUAL FIFTY YEARS AFTER *BROWN*: CALIFORNIA'S RACIAL OPPORTUNITY GAP 3-4 (2004), *available at* http://www.idea.gseis.ucla.edu/publications/idea/images/brownsu2.pdf.

89. *See* Press Release, Office of the Governor, Governor Schwarzenegger Announces Settlement of Williams Case (Aug. 13, 2004), *at* http://gov.ca.gov/index.php?/press-release/2869/; *see also* Nanette Asimov, *Big Win for Run-Down Schools Brings Hope*, S.F. CHRON., Aug. 12, 2004, at B1.

90. *See* Cal. Sch. Bds. Ass'n, Technical Fixes to Williams Settlement Now Law (Aug. 30, 2005), http://www.csba.org/csn/september05/csnStoryTemplate.cfm?id=336. For a broader discussion of the educational inadequacies and inequalities framed by *Williams* and the *Williams* settlement, see JEANNIE OAKES & JOHN ROGERS, LEARNING POWER: ORGANIZING FOR EDUCATION AND JUSTICE (2006).

C. Opportunities and CAHSEE Pass Rates: Early Warnings

The first CAHSEE test results released in August 2004[91] offered initial evidence of a likely relationship between schools with high failure rates and schools experiencing opportunity problems. The map in Figure 5 highlights the nature of this relationship following the tenth grade administration of the CAHSEE.[92] The background of the map shows the proportion of Latino and African American residents across different census tracts in Los Angeles County.[93] Los Angeles County high schools with high CAHSEE pass rates are depicted with black dots and schools with low pass rates are displayed with white dots.[94] Schools marked with an "x" lack qualified teachers, rigorous courses, or space.[95] Two patterns are evident in the map: (a) schools experiencing opportunity problems are located in predominantly Latino and African American communities; and (b) all schools with opportunity problems produced low pass rates on the CAHSEE.[96]

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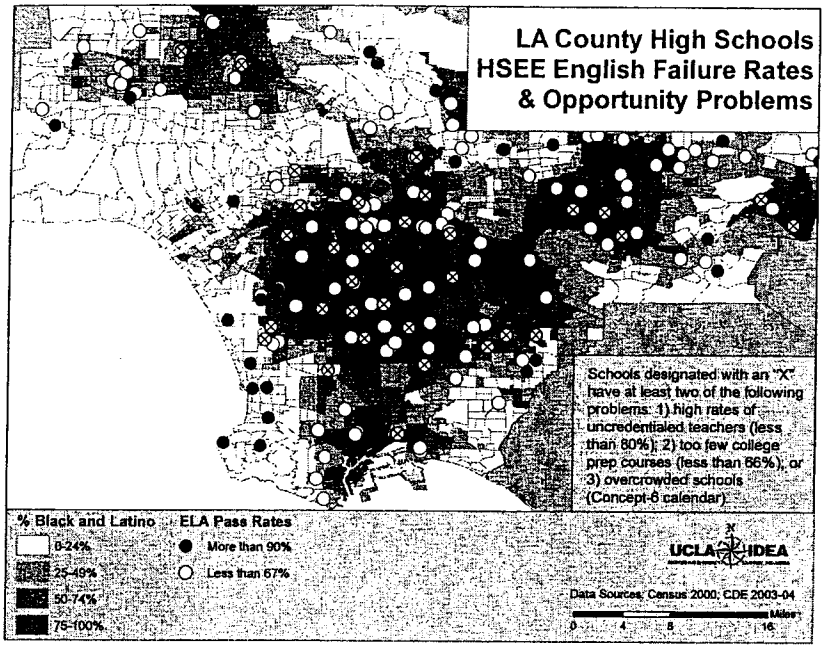
91. *See* 2004 STAR and CAHSEE, *supra* note 22.
92. *See infra* fig.5.
93. *See infra* fig.5.
94. *See infra* fig.5.
95. *See infra* fig.5.
96. *See infra* fig.5. For a similar analysis using tenth grade CAHSEE results, see John Rogers, *Exit Exam Flimflam*, L.A. TIMES, Jan. 2, 2005, at M2.



D. Unequal Outcomes and Unequal Opportunities

The pattern of unequal outcomes and unequal opportunities that initially emerged in 2004 is seen as well in the final CAHSEE results. There is broad variability across California high schools in the cumulative pass rates on the CAHSEE.[97] Roughly twenty percent of the original Class of 2006 attended schools that experienced very low pass rates on the CAHSEE.[98] In these 241 schools, the cumulative pass rate on at least one of sections of the CAHSEE was lower

97. The CDE has collected data on how many students have passed each section of the CAHSEE at each test administration. I have used this data to construct a figure that represents that cumulative pass rate on each portion of the CAHSEE. I calculate the cumulative pass rate for each school by summing the number reported as "passers" in all the test administrations and then dividing this figure by the number of students who were originally enrolled as tenth graders in 2003-04. The figure which emerges—what I term the cumulative pass rate on ELA and Math—is imperfect. For example, it does not account for students who entered the class after the first examination period. Nonetheless, it offers the best proxy for how well schools enabled their original cohort to attain success on the CAHSEE.

98. Analysis based on publicly available data from the California Basic Educational Data System.

than seventy-five percent.[99] Another fifteen percent of the original Class of 2006 attended schools with relatively high pass rates on the CAHSEE.[100] In these 138 schools, the cumulative pass rates on *both* sections of the CAHSEE were higher than ninety-five percent.[101] These two groups of schools served very different student bodies and offered very different conditions. Almost all (five of six) Low Pass Rate schools enrolled a majority of low-income students of color.[102] Conversely, almost all the High Pass Rate Schools (eight of nine) served a majority of white and non-poor students.[103]

According to Figure 6, California students encountered dramatically different opportunities to learn across these two groups of schools.[104] Students attending the Low Pass Rate schools were almost ten times more likely to attend schools with severe teacher shortages than students who attend the High Pass Rate schools (fifty-nine percent to six percent).[105] Similarly, students enrolled in the Low Pass Rate schools were far more likely (sixty-five percent versus twenty-five percent enrolled in High Pass Rate schools) to experience schools with critical shortages of math teachers who hold a certification to teach math.[106] Further, students attending the Low Pass Rate schools were more likely to encounter other problems with school conditions that impact learning. Forty-two percent of students enrolled in Low Pass Rate schools experienced critically overcrowded schools compared with only nine percent of students enrolled in High Pass Rate

99. Analysis based on publicly available data from the California Basic Educational Data System.

100. Analysis based on publicly available data from the California Basic Educational Data System.

101. Analysis based on publicly available data from the California Basic Educational Data System.

102. Analysis based on publicly available data from the California Basic Educational Data System.

103. Analysis based on publicly available data from the California Basic Educational Data System.

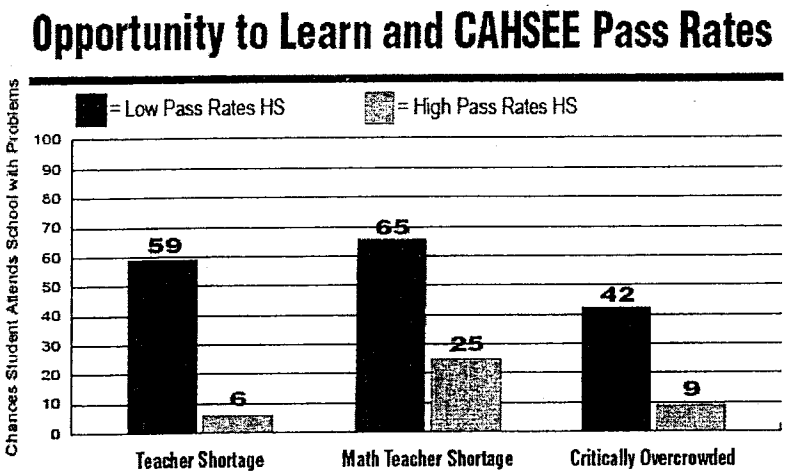
104. *See infra* fig.6.

105. *See infra* fig.6. "Severe teacher shortages" is defined as schools where twenty percent or more of the faculty lacked a full teaching credential. I conducted a similar analysis in August 2005 based on the pass rates for the Class of 2006 through the end of eleventh grade. *See* JOHN ROGERS ET AL., MORE QUESTIONS THAN ANSWERS: CAHSEE RESULTS, OPPORTUNITY TO LEARN, AND THE CLASS OF 2006, at 2-5 (2005).

106. *See infra* fig.6.

Schools.[107]

Figure 6:



E. Inadequate Conditions Across Middle School and High School Pathways

Many students in the Class of 2006 have experienced dramatically substandard schooling throughout their K-12 education.[108] As noted above, the state acknowledged some of these problems in its settlement of *Williams*.[109] Because California has not fully implemented a longitudinal student data system, we cannot track the learning opportunities individual students experienced over time.[110] However, we can examine the opportunities available to the Class of 2006 within a particular cluster of middle schools and high schools.

There are fourteen middle schools that feed into the eight comprehensive high schools serving the South Los Angeles community.[111] All of these schools are located within the Los

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107. *See infra* fig.6. The term "critically overcrowded schools" refers to the designation assigned by the California Department of Education to schools that enroll more than twice as many student per acre as the state recommends. JOHN ROGERS ET AL., INST. FOR DEMOCRACY, EDUC. & ACCESS, UNIV. OF CAL., LOS ANGELES, CALIFORNIA EDUCATIONAL OPPORTUNITY REPORT 2006: ROADBLOCKS TO COLLEGE 17 (2006).

108. *See, e.g.*, *supra* note 98 and accompanying text.

109. *See supra* notes 100-110 and accompanying text.

110. HUMRRO 2005 Report, *supra* note 40, at xi.

111. Analysis based on publicly available data from the California Basic Educational Data System.

Angeles Unified School District and all serve primarily Latino and African American students from low-income families.[112] Members of the Class of 2006 attended middle school in 1999-2000, 2000-2001, and 2001-2002. During these three years, *fewer than sixty percent* of all South Los Angeles middle school teachers held a full credential.[113] Further, *only thirty-three percent* of all math teachers in these schools held a credential to teach mathematics.[114] In addition, all fourteen of these middle schools were designated by California's Department of Education as "critically overcrowded."[115]

Members of the Class of 2006 did not fare much better when they moved from South Los Angeles middle schools to South Los Angeles high schools. *Fewer than sixty-five percent* of the teachers in South Los Angeles high schools held a full credential during the four years that the Class of 2006 enrolled at these schools.[116] *Only thirty-five percent* of the math teachers in these schools held a credential to teach mathematics.[117] All eight of the South Los Angeles high schools were designated "critically overcrowded" by the California Department of Education.[118]

The problems facing the Class of 2006 are not unique to South Los Angeles. For example, schools in Inglewood Unified, Lynwood Unified, and Compton Unified have failed to provide the Class of 2006 with sufficient access to well-trained teachers.[119] Nearly all the students enrolled in these districts are Latino or African American.[120] Only a little more

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112. According to the California Basic Educational Data System, in 2005-06, more than ninety-nine percent of the students in the eight high schools in South Los Angeles were Latino or African American.

113. *See infra* fig.7.

114. *See infra* fig.7.

115. Analysis based on publicly available data from the California Basic Educational Data System.

116. *See infra* fig.7.

117. *See infra* fig.7.

118. *See infra* fig.7.

119. *See infra* fig.7.

120. In 2005-2006, more than ninety-eight percent of the students in each of these districts were Latino or African American. *See* Cal. Dep't of Educ., California Public Schools – District Report, 2005-06 District Enrollment by Ethnicity: Compton Unified, http://dq.cde.ca.gov/dataquest/DistEnr2.asp?cChoice=DistEnrEth&cYear=2005-06&cLevel=District&ctopic=Enrollment&myTimeFrame=S&TheName=inglewood&cSelect=1973437--COMPTONUNIFIED&submit1=Submit (last visited Apr. 19, 2007); Cal. Dep't of Educ., California Public Schools – District Report, 2005-

than half of the teachers at Inglewood and Lynwood middle schools held full teaching credentials when the Class of 2006 was enrolled in middle school.[121] The situation in Compton was even worse: only forty-four percent of the middle school teachers held a full credential when the Class of 2006 attended middle school.[122] These problems carried over into the high school. Six in ten high school teachers in Inglewood and Compton held a full credential, and only seven in ten of Lynwood's high school teachers held a full credential while the Class of 2006 was enrolled in high school.[123] Further, only half of Lynwood and Compton's math teachers held a credential to teach math. In Inglewood, only eighteen percent of math teachers were credentialed to teach math.[124] Certainly, this lack of access to well-trained teachers undermined the ability of students in Inglewood, Lynwood, and Compton to be successful on the CAHSEE.

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06 District Enrollment by Ethnicity: Inglewood Unified, http://dq.cde.ca.gov/dataquest/DistEnr2.asp?cChoice=DistEnrEth&cYear=2005-06&cLevel=District&ctopic=Enrollment&myTimeFrame=S&TheName=inglewood&cSelect=1964634--INGLEWOODUNIFIED&submit1=Submit (last visited Apr. 19, 2007); Cal. Dep't of Educ., California Public Schools – District Report, 2005-06 District Enrollment by Ethnicity: Lynwood Unified, http://dq.cde.ca.gov/dataquest/DistEnr2.asp?cChoice=DistEnrEth&cYear=2005-06&cLevel=District&ctopic=Enrollment&myTimeFrame=S&TheName=inglewood&cSelect=1964774--LYNWOODUNIFIED&submit1=Submit (last visited Apr. 19, 2007).

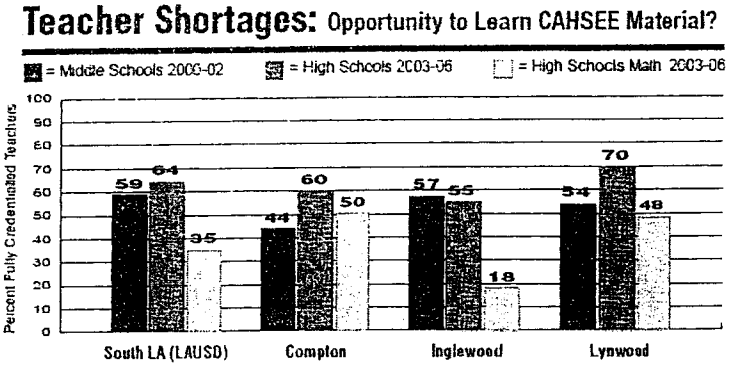
121. *See infra* fig.7; *see also* Cal. Dep't of Educ., Teacher Credential and Experience Report: 2000-01: Lynwood Middle – Lynwood Unified, http://data1.cde.ca.gov/dataquest/NumTchSch.asp?cChoice=SchTchExp&cYear=2000-01&cSelect=LYNWOOD%5EMIDDLE%5E%5E%5E%5E%5E%5E--LYNWOOD%5EUNIFIED--1964774-6115547&cTopic=Paif&cLevel=School&Radio2=T (last visited May 7, 2007) (reporting 63.6 percent of teachers with a full credential in 2000-01).

122. *See supra* fig.7.

123. *See supra* fig.7.

124. *See supra* fig.7.

Figure 7



It is not surprising that high schools in each of these districts have very low pass rates on the CAHSEE—particularly in mathematics. The statewide cumulative pass rate on the Math Section of the CAHSEE was eighty-five percent.[125] By way of comparison, Inglewood, Compton, and Lynwood only mustered cumulative math pass rates of seventy-one percent, sixty percent, and sixty-four percent, respectively.[126] The cumulative math pass rate in the eight South Los Angeles high schools was only fifty-four percent.[127] These low pass rates on the CAHSEE translated into falling graduation rates across these clusters of schools.[128]

125. *See infra* fig.8.
126. *See infra* fig.8.
127. *See infra* fig.9.
128. *See infra* fig.9.

Figure 8:

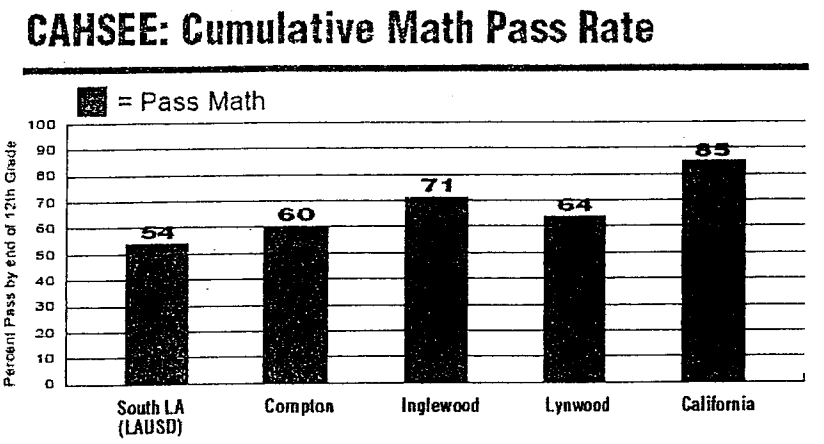
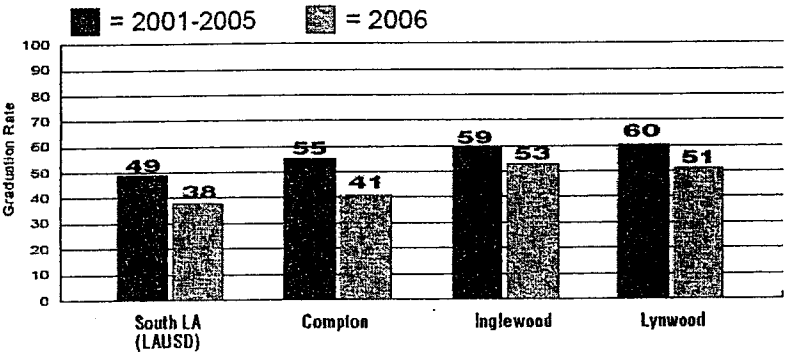


Figure 9:



VI. CONCLUSION: CONSTRUCTING SUCCESS THROUGH RESPONSIBLE ACCOUNTABILITY

The dramatic drop-off in California's graduation rate combined with the failure of California to ensure adequate learning conditions for all students raises difficult questions about the viability of test-based accountability. According to the narrative of test accountability, information about student performance on high-stakes tests drives educational improvement.[129] Students, parents, educators, and officials informed about poor test results will be motivated, this narrative suggests, to work harder and take actions necessary to achieve success.[130] The story of "accountability via transparency" did not play out for California's Class of 2006.[131] The public was provided with overly optimistic reports that downplayed the need for remedial action.[132] This failure of officials to communicate CAHSEE pass rates clearly and accurately reflects a structural problem with who controls the flow of educational information. Education officials had a strong interest in representing the CAHSEE as a success. As Jennifer Hochschild notes, "[T]he last thing any elected official wants is to be held electorally accountable for achieving a particular outcome at a given moment, especially when that outcome is extremely difficult to accomplish and its accomplishment lies in the hands of a notoriously loosely-coupled entity such as the public school system."[133]

The state's failure to create transparent pass rates was compounded by its narrow focus on test performance at the expense of school capacity.[134] Schools like those in South Los

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129. Bruno V. Manno et al., *Charter School Accountability: Problems and Prospects*, 14 EDUC. POLICY 473, 476 (2000).

130. *Id.*

131. *See* Bruce V. Manno et al., *Accountability Through a Picture Window—Accountability in Education*, SCH. ADMIN., Feb. 2001, *available at* http://findarticles.com/p/articles/mi_m0JSD/is_2_58/ai_76939347 (describing "accountability via transparency" as "a regimen in which so much is visible in each school that its many watchers and constituents . . . can and routinely do 'regulate' it through market-style mechanisms rather than command-and-control structures").

132. *See supra* Parts III.B-C.

133. Jennifer L. Hochschild, *Three Puzzles in Search of an Answer from Political Scientists (with Apologies to Pirandello)*, 37 PS: POL. SCI. & POL. 225, 228 (2004).

134. Many California schools are categorized as "critically overcrowded." *See*

Angeles that lack the fundamental conditions necessary to promote academic success cannot be goaded to better performance through high-stakes testing alone.[135] They need more resources and better conditions in order to improve instruction.[136] Lacking such capacity, students, parents, and educators often react to the pressure of high-stakes testing with apathy, frustration, or resignation—rather than with enhanced agency.[137]

The understanding that "it takes more than pressure to improve failing high schools"[138] is why early formulations of systemic accountability argued for the importance of coupling adequate and equitable opportunities to learn with rigorous content standards and systematic assessment.[139] Over the last fifteen years, federal and state accountability systems have increasingly decoupled student achievement from the conditions in which students are expected to learn.[140] This decoupling has led to accountability systems that fail to correct inequities and that hide the fact that students who experience fewer resources nearly always learn less.[141]

An accountability system truly committed to constructing success will monitor educational conditions as well as

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Cal. Dep't of Educ., California Department of Education Certification of School Site Density, *at* http://www.cde.ca.gov/ls/fa/co/documents/coscert.xls (last visited May 7, 2007).

135. For example, a principal of a school where the majority of students received failing scores on the state's achievement test for two consecutive years stated, "I'm not worried [about the possibility of another failing year] because I'm leaving this job. I'm tired of being humiliated. . . . The worst thing about this is the state doesn't have any suggestions for what we should do differently. They're just applying the pressure and I'm fed up with it." Pedro A. Noguera, *It Takes More Than Pressure to Improve Failing High Schools*, IN MOTION MAG., Oct. 1, 2005, *available at* http://www.inmotionmagazine.com/er/pn_pressure.html.

136. *See id.* (listing recruitment of skilled teachers, reducing class size, and tutoring as essential to raising achievement and creating better schools) (citing FRED M. NEWMANN, STUDENT ENGAGEMENT AND ACHIEVEMENT IN AMERICAN SECONDARY SCHOOLS (1992)).

137. Noguera, *supra* note 135.

138. *Id.*

139. M.S. Smith & J. O'Day, *Systemic School Reform*, *in* POLITICS OF EDUCATION ASSOCIATION YEARBOOK, 1990, at 233 (1990).

140. Jeannie Oakes et al., *Accountability for Adequate and Equitable Opportunities to Learn*, *in* HOLDING ACCOUNTABILITY ACCOUNTABLE: WHAT OUGHT TO MATTER IN PUBLIC EDUCATION 82 (Kenneth Sirotnik ed., 2004).

141. *Id.*

outcomes.[142] This means creating clear standards that specify what learning outcomes students are expected to achieve and the resources and conditions necessary to support teachers and students as they pursue these goals.[143] It also means creating and making public unambiguous lines of responsibility—up and down the educational system—for ensuring educational quality.[144] Such a system not only will prompt continuous improvement, it also will provide the public with a clear understanding of what constitutes educational success and how it can be created.

142. *Id.*
143. *Id.*
144. *Id.*