

Figure 1).

Figure 1³

Percent Black and Latino Students in 90-100 Percent Minority Schools 1968-1996

90

from two school districts, investigating the harmful and segregative effects of tracking. Part V considers legal challenges to tracking within the changed national context resulting from the ongoing movement toward standards based high school

within-schools present a startling example of this phenomenon: the

inherently discriminatory nor does it necessarily subject low-track students to an inferior education.²¹ Notwithstanding this support from some researchers, plus tracking's wide-spread acceptance in schools

[REDACTED]

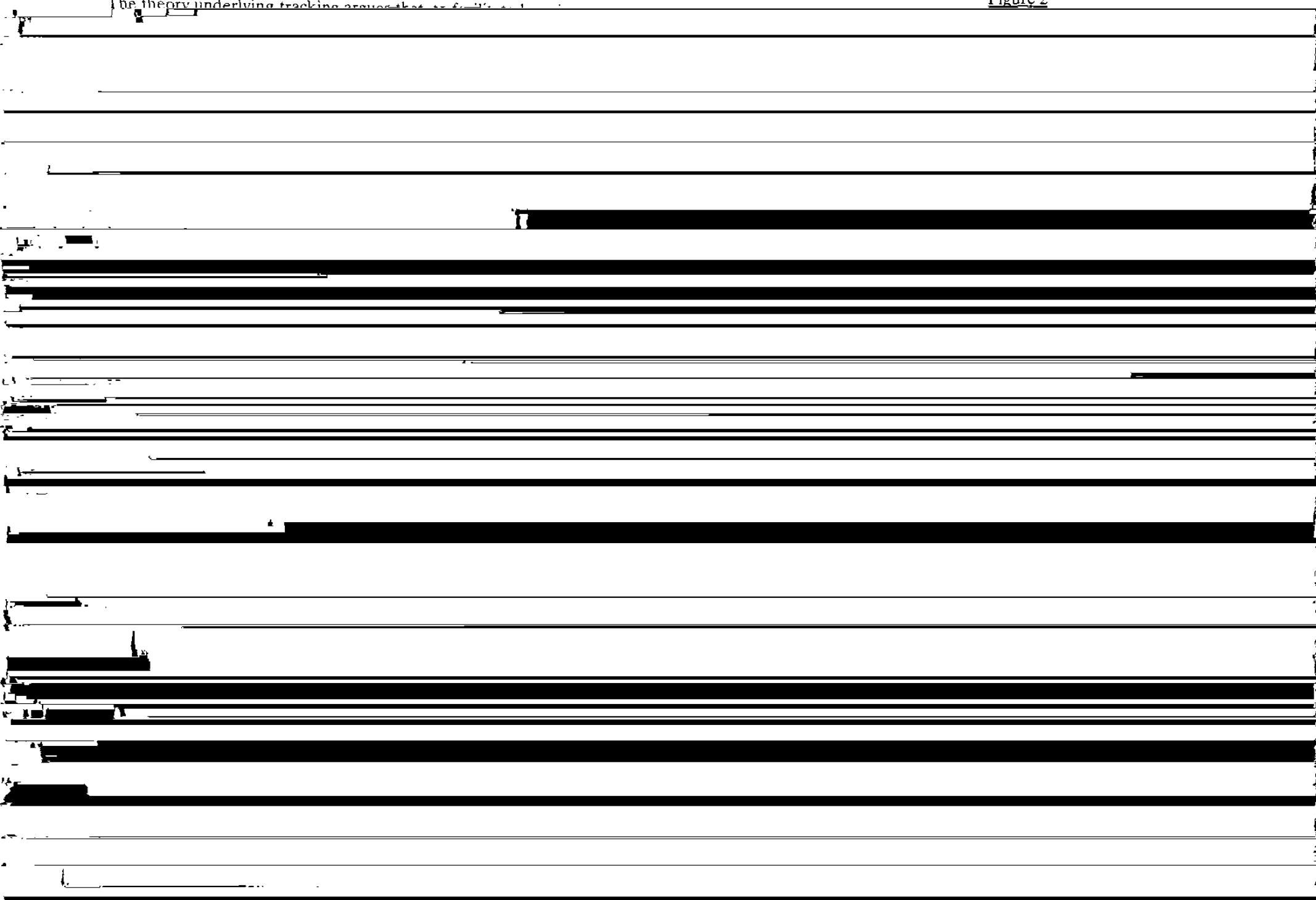
instance. Braddock and Dawkins demonstrated that minority and white eighth graders' plans to enroll in high school college preparatory and non-college preparatory classes differed markedly

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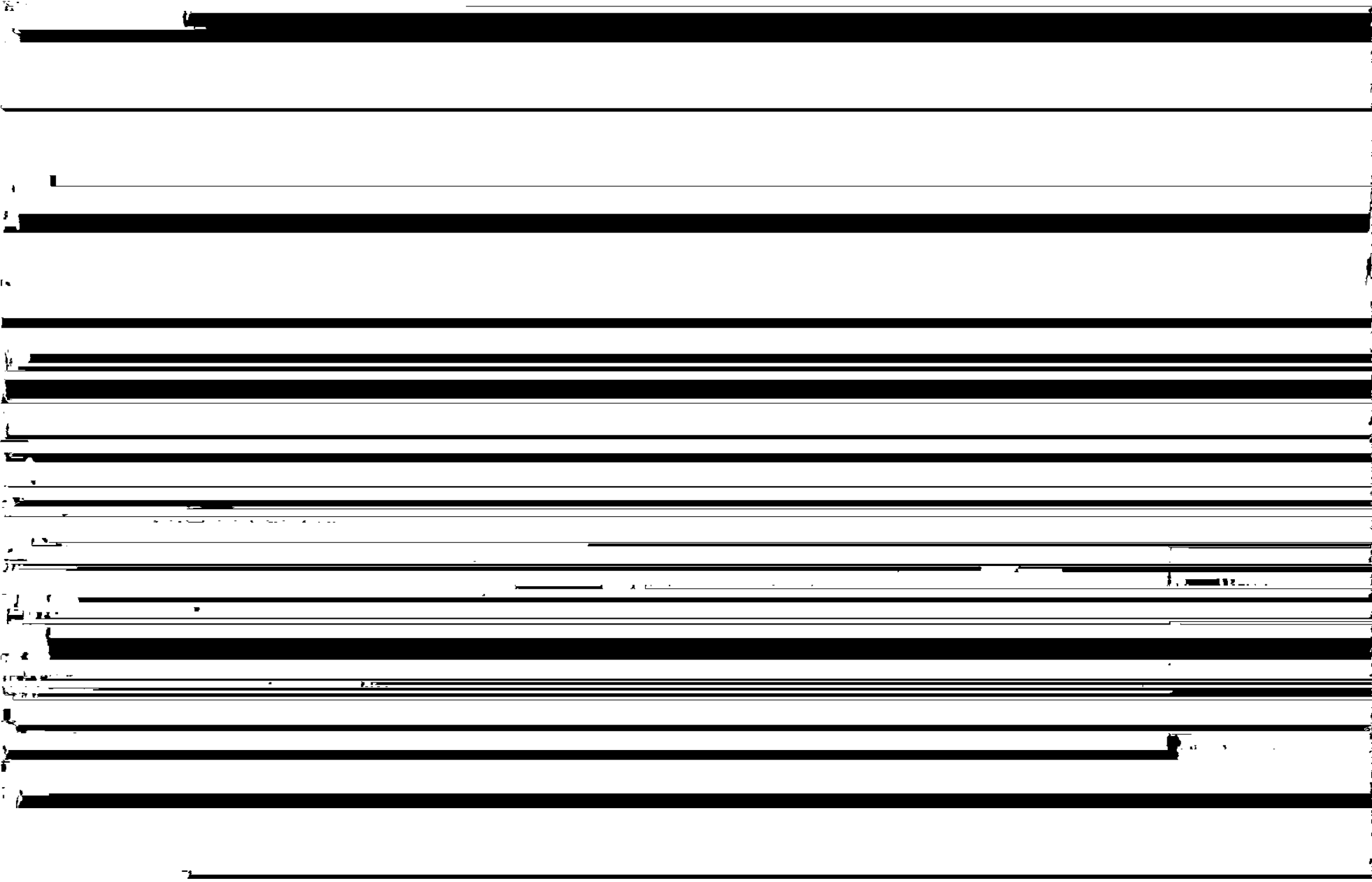
A. The Broad Range of Prior Measured Achievement Within Tracks

Figure 2

The theory underlying tracking argues that to fulfill a



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This is also evidence of second generation segregation

English track placement in Woodland Hills⁸⁰ The results indicated

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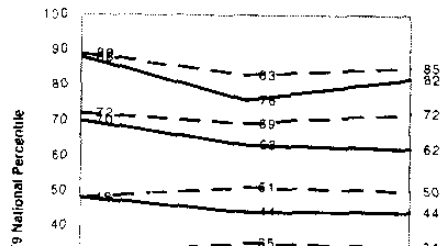
7 account for the generation between

Figure 7b

Impact of 1997 9th Grade English Placement, Woodland Hills⁸⁷

at same period.⁸⁹

Impact of 1997 9th Grade English Placement
(Series are omitted if high or low contains less than
13 students)



tracking system actively denied educational opportunities to the students in lower level classes. Such findings point to one of the most important criticisms of tracking nationally: that placements tend to take on lives of their own, symbolizing a student's rank and capabilities and powerfully influencing his or her future chances.⁸⁹

2. Woodland Hills

We also examined the impact of tracking in Woodland Hills' English courses. We created a statistical model, using linear regression analysis, to determine the impact on subsequent test scores of various possible predictor variables. In particular, we were focused

Figure 8
 Factors Driving 7th Grade Reading Achievement
 Woodland Hills, 1994-1995

	Value	Std Error
6 th Grade ITBS	0.76	0.03

the students were promoted, while the second graph shows the levels of courses taken by those promoted students.

Figure 9

Looking at the high scoring majority...

[The remainder of the page is obscured by heavy black redaction bars.]

V. Standards High-Stakes Testing

The table contains multiple rows and columns, but the content is almost entirely obscured by thick black redaction bars. Only a few faint lines of text are visible at the top and bottom of the page, which appear to be page headers and footers.

Elsewhere I have argued that well-formed constitutional

Cloned¹¹⁹ and/or Title VI of the 1964 Civil Rights Act as implemented

E.

To this miscellany of local authorities, opponents of tracking may

chosen to use the TAAS to drive instruction covering the state-adopted curriculum.¹³⁸ Arguably, the court could have engaged in a

should suffice to raise Title VI issues concerning disparate racial impact.¹⁴¹ So long as the state has set forth standards attached to

demand that is now an ingredient of both IDEA and Title I – that students served under these laws be included in state testing and

of educational adequacy.

and "no child [is] left behind" was not intended by policymakers to be taken literally. Perhaps the standards and high-stakes assessments were intended only to embarrass and punish, as some have charged.¹⁴⁹

But this new statutory context, especially in light of local challenges to

within-school disparities that stratify opportunities to learn. Whether so intended or not, the standards and assessments provide support for actions grounded in due process and in state education clauses, as well as in Title VI. In a society where discrimination has largely shifted from the overt racism challenged in *Brown v. Board of Education*¹⁵⁰ to more subtle institutional racism¹⁵¹ and economic oppression,¹⁵² litigation must respond accordingly and even, if the occasion so demands, make use of rhetorical (and statutory)