

## **CHAPTER 7**

---

### **IS ANYTHING RACE NEUTRAL? COMPARING “RACE-NEUTRAL” ADMISSIONS POLICIES AT THE UNIVERSITY OF TEXAS AND THE UNIVERSITY OF CALIFORNIA**



**Jorge Chapa**

**Catherine L. Horn**



“*To oppose racism one must notice race.*” Omi & Winant (1994, p. 158)

The 1990s brought to an end race-conscious affirmative action in higher education admissions in both California (as a result of SP-1 and Proposition 209) and Texas (because of the Fifth Circuit’s decision in *Hopwood v. Texas*). However, the “race-neutral” policies, practices, and results of those adopted by these states have been mixed. The number of African American and Latino students at the University of California (UC) dropped precipitously and now, a decade later, is still below 1995 levels. Texas adopted the Top Ten Percent Plan (TTPP), and the University of Texas at Austin (UT) now has more minority students than ever. In addition to increasing the number of Black and Latino students, TTPP has increased the geographic diversity of UT undergraduates (Montejano, 2003).

The goal of this chapter is to examine the prospects for increasing African American and Latino representation in higher education in the time following the U.S. Supreme Court’s decision in *Grutter v. Bollinger*. It first explores what lessons can be learned from Texas’ experience with the TTPP, in particular at UT. UT’s changes to their undergraduate admission process post-*Grutter* are further considered in the context of growth and demographic shifts in the last decade. Texas in general and UT in particular have an opportunity to capitalize on an increasingly racially diverse traditional college-age student population. The chapter then reassesses how UC determines eligibility and how its current practice minimizes minority eligibility. It examines UC’s percent plan, Eligibility in the Local Context (ELC), which admits the top four percent of California’s high school graduates to UC. We will argue that while ELC is not a diversity enhancing program, it does offer a useful lesson. We also briefly review *Castaneda v. Regents of the University of California*, a suit filed in 1999 in federal court on behalf of African American, Latino, and Pilipino American applicants to UC Berkeley. The chapter concludes with a discussion of the policy implications of such efforts and needed research moving forward.

### Texas’ Top Ten Percent Plan

While many policies with peripheral bearing on Texas college student access and success have been implemented and will be discussed later in the chapter, House Bill 588 – The Top Ten Percent Plan (TTPP) – most directly influences institution-level admission decision making.<sup>1</sup> With its passage in 1997, the TTPP guaranteed automatic admission for every student in the top 10 percent of his/her graduating classes to any general academic teaching institution of choice.<sup>2</sup> The policy was put in place as a reaction to the Federal Fifth Circuit Court of Appeals *Hopwood*

---

<sup>1</sup> See Horn and Flores (2003) for a full description of the program.

<sup>2</sup> As defined by Section 61.003 of the Texas Education Code, “general academic teaching institution” includes the following schools: The University of Texas at Austin; The University of Texas at El Paso; The University of Texas of the Permian Basin; The University of Texas at Dallas; The University of Texas at San Antonio; Texas A&M University, Main University; The University of Texas at Arlington; Tarleton State University; Prairie View A&M University; Texas Maritime Academy; Texas Tech University; University of North Texas; Lamar University; Lamar State College - Orange; Lamar State College - Port Arthur; Texas A&M University - Kingsville; Texas A&M University - Corpus Christi; Texas Women’s University; Texas Southern University; Midwestern State University; University of Houston; University of Texas - Pan American; The University of Texas at Brownsville; Texas A&M University - Commerce; Sam Houston State University; Southwest Texas State University; West Texas A&M University; Stephen F. Austin State University; Sul Ross State University; Angelo State University; The University of Texas at Tyler; and any other college, university, or institution so classified by law.

ruling, which restricted universities in that jurisdiction from considering race in admissions decisions (Horn & Flores, 2003). The Texas 10 percent plan was highlighted in a 2003 Office of Civil Rights Document as one of several “innovative ‘race-neutral’ programs being implemented across the country” (United States Department of Education, 2003, p. iv). It was not intended, however, to act as a direct and effective substitute for race-conscious policies. As the creators of the plan note, “We do not believe that the Ten Percent Plan will reverse the losses that the elimination of affirmative action occasioned or become the alternative that the President and others believe it has become” (Brief of the Authors of the Texas Ten Percent Plan, 2003, p. 3).

### Automatic Admission Policies and Segregated High Schools

School segregation has been, and continues to be, a major obstacle in the attainment of equal educational opportunity for a substantial proportion of African American and Latino students. Many authors have traced the roots and contemporary conditions of segregation faced by African American and Latino students and have underscored the tight connections between racial/ethnic isolation and limited educational opportunities. For example, Linda Darling-Hammond (1998) notes that:

[E]ducational experiences for minority students have continued to be substantially separate and unequal. Two-thirds of minority students still attend schools that are predominantly minority, most of them located in central cities and funded well below those in neighboring suburban districts. Recent analysis of data prepared for school finance cases in Alabama, New Jersey, New York, Louisiana, and Texas have found that on every tangible measure – from qualified teachers to curriculum offerings – schools serving greater numbers of students of color had significantly fewer resources than schools serving mostly white students. (p. 29)

The linkages between school segregation and adverse learning and achievement outcomes are easy to find. Observed correlations between segregation and educational outcomes are negative and robust (Orfield & Yun, 1999). As the minority student body increases in size and concentration, several schooling problems likewise increase. Achievement scores on standardized tests at all grade levels decline. At the secondary level, when segregation increases, the dropout rate rises, the number of college preparatory courses offered decreases, the percentage of students taking college entrance examinations decreases, and the average college admissions test scores decline. Segregation of school-age African American and Latinos is highly related to their low participation in higher education (Orfield & Lee, 2005; Orfield & Yun, 1999). Jeannie Oakes of UCLA found that “African American and Latino students were much less likely than White or Asian students with the same test scores to be placed in accelerated courses” (Oakes quoted in Gordon, Piana, & Keleher, 2000). This variability in educational opportunities available in public schools offers a strong argument for the determination of eligibility for admissions in the context of resources available to students in their high schools. The initiation of automatic admission policies attentive to those high school factors may be a small step in this direction.

While a handful of states in the country implement policies similarly named, wide variations exist as to the actual guarantees provided students (see Horn & Flores, 2003, for full discussion).

At present, Texas' plan affords the most generous provisions for post-secondary entry and has been in place for the longest period of time. Further, as will be discussed in detail later in the chapter, it is now being implemented in the context of the reversal of *Hopwood* and in conjunction with the reinstatement of affirmative action policies at some universities in the state. Having been held out nationally as implementing an effective state-level "race-neutral" admission policy as well as because of its current qualities that forecast the demographic direction of the country, then, Texas represents a key state in which to explore admission decision making and the goal of racial/ethnic diversity on college campuses. Within this state, one institution – the University of Texas at Austin – has particular relevance to this discussion and is now where the chapter turns.

### Pre-Gratz and Grutter UT Admissions Policies

Current admissions practices at UT Austin are best understood in the context of the university's policies prior to the Supreme Court's 2003 decisions in *Grutter v. Bollinger* and *Gratz v. Bollinger*.<sup>3</sup> Since the 1970s, UT had considered race as a factor in its admissions decisions at both the undergraduate and graduate and professional school levels (*Hopwood*). In the 1980s and early 1990s, for example, the Law School placed prospective students in a presumptive admit, discretionary, or presumptive denial category based on a Texas Index score<sup>4</sup> but set different cut off scores for Mexican American and Black applicants to be presumptively admitted (*Hopwood*).<sup>5</sup>

In a challenge to race-conscious policies, Cheryl Hopwood and three other White students filed suit against the University of Texas law school in 1992, arguing that their Fourteenth Amendment right to equal protection had been violated (*Hopwood*). A 1996 Fifth Circuit Court of Appeals decision ruled in favor of the plaintiffs, arguing,

within the general principles of the Fourteenth Amendment, the use of race in admissions for diversity in higher education contradicts, rather than furthers, the aims of equal protection.... It treats minorities as a group, rather than as individuals.... The use of race, in and of itself, to choose students simply achieves a student body that looks different. Such a criterion is no more rational on its own terms than would be choices based upon the physical size or blood type of applicants. (*Hopwood*)

The decision revoked UT's ability to consider race in its admissions decision making and also left the state struggling with how to pursue an interest in student-body diversity within the new legal guidelines. In response, UT Austin moved to holistic review of freshman applications,

---

<sup>3</sup> See Horn and Flores (2003) for a discussion of Texas public universities' historical struggles with racial segregation and broader context in which race-conscious admissions policies were applied.

<sup>4</sup> Specifically, the Texas Index was weighted 60 percent LSAT score, 40 percent undergraduate GPA. The formula was  $LSAT + (10)(GPA) = TI$  (*Hopwood v. Texas*).

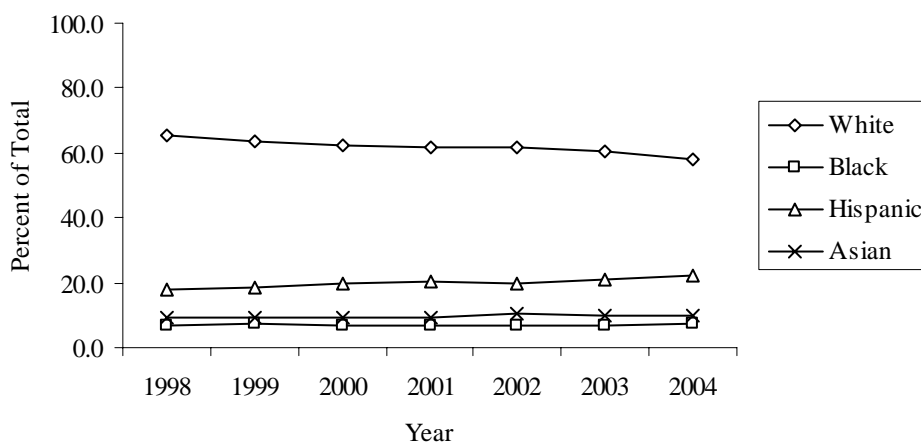
<sup>5</sup> Even with such efforts, Blacks and Hispanics continued to be underrepresented relative to their representation in the state's traditional college-age population (Chapa, 2002). Moreover, substantial proportions of admitted students, specifically undergraduates, originated from a relatively small number of Texas high schools. Montejano (2003), for example, found that 64 Texas high schools accounted for half of the Fall 1996 entering class at UT Austin.

“broadening the factors used to make admission decisions to include subjective criteria (e.g., essays, awards and honors, service, work experience) and special circumstances that put an applicant’s achievements into context” (University of Texas at Austin, 2005, p. 30). At the state level, a group of advocates and legislators proposed the 10 percent plan by which all students at the top of their graduating high school classes would have automatic admission to the public university of their choice (Horn & Flores, 2003). House Bill 588 became law in 1997; UT admitted its freshman class under the new state guidelines in the Fall of 1998.<sup>6</sup>

### Percent Plan Admissions

Looking specifically at the 10 percent plan, Figures 7-1 and 7-2 show freshman, by race/ethnicity, admitted under this policy. Across the system, Whites constituted a decreasing share of the 10 percent plan admissions from 1998 to 2004, moving from 66 to 58 percent of the total. Black representation remained constant at 7 percent, and Asian proportions rose one percentage point over the six-year period (to 10 percent by 2004). The net proportional gains largely were achieved by Hispanics, who rose from 18 to 22 percent of the system-wide 10 percent plan admissions. At UT, 10 percent plan White, Black, and Latino student admissions constituted a slightly lower proportion of the total relative to the state as a whole (Figure 7-2). Asians, however, comprised a much greater share of the total 10 percent plan admissions at UT (roughly 20 percent in 2004) compared to the state.

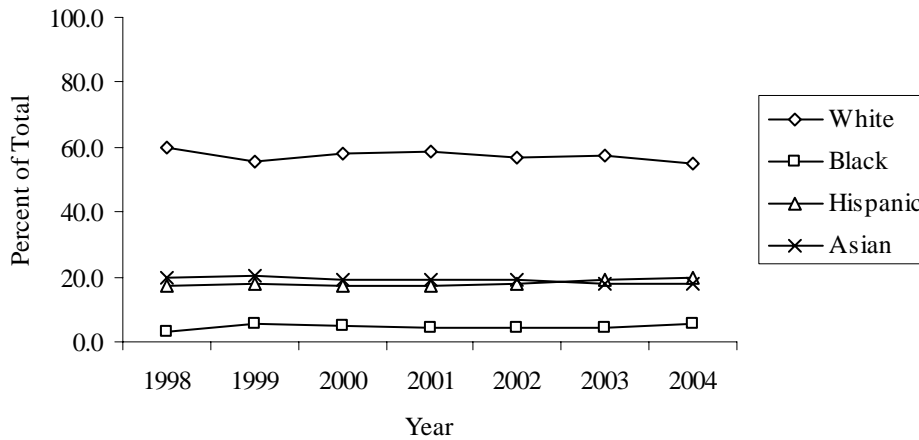
Figure 7-1: Texas System-Wide 10 Percent Plan Summer/Fall Freshman Admissions, by Race/Ethnicity, 1998-2004



Note: Percentages do not sum to 100 due to rounding error and the exclusion of American Indian, International, and “unknown” students. Source: Texas Higher Education Coordinating Board. First-Time Undergraduate Application, Acceptance, and Enrollment Information, Summer/Fall 1998-2004 (<http://www.txhighereddata.org/Interactive/AppAccEnr.cfm>).

<sup>6</sup> The 10 percent plan was not a large change from what UT Austin already had in place, however; between 1989 and 1994, all students graduating in the top 10 percent of their classes were already being automatically admitted (United States Department of Education, 2003). What did change substantially, however, was the outreach and support built around the 10 percent plan (see Horn & Flores, 2003), which has to be strongly considered in understanding the relative effectiveness of the 10 percent plan.

Figure 7-2: UT Austin 10 Percent Plan Summer/Fall Freshman Admissions, by Race/Ethnicity, 1998-2004



Note: Percentages do not sum to 100 due to rounding error and the exclusion of American Indian, International, and “unknown” students. Source: Texas Higher Education Coordinating Board. First-Time Undergraduate Application, Acceptance, and Enrollment Information, Summer/Fall 1998-2004 (<http://www.txhighereddata.org/Interactive/AppAccEnr.cfm>).

### The 10 Percent Plan Post-Grutter

In implementing this newly revised process after the *Grutter* decision, UT officers face the unique situation of putting into practice race-conscious admissions concurrent with the automatic admission policy. UT administrators have publicly voiced frustration about the restrictions the 10 percent plan has unintentionally placed on that process, although their argument has been to amend rather than end the practice altogether (Grissom, 2005a). As the Texas state legislature debated the issue in the Spring 2005, President Faulkner suggested that law be modified to cap the number of students admitted under it, suggesting that only half of the freshman class be comprised of 10 percent plan qualifiers (Grissom, 2005b). Additionally, further revisions were suggested by various senators. For example, Senator Royce West of Dallas sponsored legislation to limit the automatic admissions guarantee only to students who have completed the state’s recommended or advanced high school programs (Grissom, 2005b). In contrast, some critics simply wanted the plan rescinded altogether (Fischer, 2005). The 2007 Texas Legislative session brought further strong debate. Advocates from districts with large minority populations and from rural areas joined together, keeping the TTPP in place as originally written (Jaschik, 2007).

### TTPP Student Performance

The latest data show that TTPP students have better grades across the board and within every band of SAT scores. TTPP students also have greater retention and graduation rates than non-TTPP students (UT Austin, 2005). Additional research has compared TTPP students to similarly credentialed non-TTPP students and concluded that TTPP students were outperforming other students (Walker, 2000; Gary Hansen, personal communication). The campus has also benefited. Bruce Walker notes, “Because the Ten Percenters were better prepared, the Austin campus has

been able to scale back remedial courses and increase honors sections” (Interview with Bruce Walker, Vice Provost and Director of Admissions, reported in U.S. Department of Education, 2003).

It is important to note that the increase in minority students is not an automatic consequence of the enactment of HB 588. An important part of the success of the TTPP was vigorous recruitment and targeted need-based scholarships. In fact, research has shown that knowledge about TTPP has “significantly influenced college intentions and the likelihood of actual enrollment in a four-year institution” (Tienda, Cortes, & Niu, 2003). The law seemed to have a particularly marked “contagion” effect on raising the higher educational aspirations of minorities and helping them focus on meeting the requirements for college. Students who knew a lot about TTPP were more than five times as likely to enroll in a four-year institution as the comparable student who did not know about the law (Tienda, Cortes, & Niu, 2003).

#### California’s Top 12.5% and Top 4% (Eligibility in Local Context (ELC))

California’s Master Plan for higher education dictates that the University of California (UC) system educate the top 12.5% of the state’s high school graduates (different from the TTPP, which applies to the graduating class of each high school). California State Senator Teresa Hughes proposed a State Constitutional Amendment that would admit the top 12.5% of each high school to UC, but it failed. However, UC did adopt a top 4% plan, known as Eligibility in Local Context (ELC). The plan was primarily a way to increase the size of the applicant pool to the mandated 12.5% level without “lowering standards.” The statewide pool is determined on the basis of standardized test scores, grade-point average, and curriculum. Because of declining test scores, by 1998 the standards that previously had been met by the top 12.5% of all California high school graduates were now only met by 11.1%. In order to meet its mandate, UC had to increase the size of the pool. Including the top 4% of the graduates of each high school would make it possible to bring the size of the pool back up to 12.5%. In terms of diversity, however, African Americans would comprise only 2% of the UC eligible pool whether it was identified using the 4% plan or the 12.5% statewide pool. In simulations, Latino eligibility increases by one percentage point (author calculations of data presented in Geiser, 1998).

ELC does create a very important opportunity for students who do not score well on standardized tests. First of all, it does make the competition for eligibility more fair, because students are compared to other students in the same high school with the same access to resources rather than comparing students from high-performing, well-funded high schools to those from under-funded, low performing schools. The ELC admissions process requires and encourages applicants to complete the full battery of courses required by UC (UCOP, 2003a). Students from high schools that rarely, if ever, send students to UC now have an opportunity to be admitted. If the students with low test scores can succeed at UC, then it provides an effective argument for increasing the percentage of students admitted on the basis of their class rank rather than their test scores.

Since it focuses on the top 4% of graduates, many of whom would also be in the statewide top 12.5% pool, ELC will admit relatively few new students. It has added about 3,600 students to the eligibility pool (U.S. Department of Education, 2003), but it has also encouraged many other

potentially eligible students to complete the required coursework and to apply to UC. The manner in which ELC was implemented is very instructive.

ELC has evolved quickly into a successful and popular program in large part because it functions to motivate students to achieve and apply and because it provides the University and its individual campuses with a way to contact these students early in their senior year and stay connected with them throughout the application process. Presumably some proportion of the students identified as ELC would not have finished the eligibility requirements or would not have applied to UC. The ELC identification process alerts these students that eligibility is within reach and provides a clear and inviting path to UC enrollment. As a result, virtually all of the ELC students attain full statewide eligibility. The positive message the ELC program sends is amplified by individual campuses, several of which aggressively recruit ELC students during their senior year and all of which include in their admission policies additional consideration for ELC applicants. (University of California Office of the President [UCOP], 2003a, pp. 10-11)

The biggest impact of ELC lies in its capacity to function as an effective means of recruiting applicants. Many observers have made the same point about Texas' TTPP. (See, for example, Chapa, 2002; Tienda, Leicht, Sullivan, Maltese, & Lloyd, 2003; Walker, 2000.) ELC has increased applications from high schools that previously had a small number of applicants to UC, including rural and urban rather than suburban high schools. And finally, the proportion of African Americans and Latinos participating in the program is increasing (UCOP, 2003a).

#### *Castaneda v. Regents of the University of California and Comprehensive Review*

The same strong association of racial and ethnic segregation with limited educational opportunities discussed earlier was the basis of a lawsuit filed in 1999 by the NAACP Legal Defense and Educational Fund, Asian Pacific American Legal Center of Southern California, Mexican American Legal Defense and Educational Fund, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, and the American Civil Liberties Union of Northern California in federal court on behalf of African American, Latino, and Pilipino American applicants to UC Berkeley. *Castaneda v. Regents of the University of California* alleged that the university's admission procedures unfairly disadvantaged applicants of color in violation of their federal civil rights by not taking into account the full range of indicators of "merit." The plaintiffs demonstrated that high schools serving African American and Latino students offered fewer AP courses than schools serving Anglos (Klugman, 2005).

In the Fall of 1998, the University implemented a new admissions policy that plaintiffs claimed discriminated against and unfairly diminished the admission chances of qualified students of color by relying heavily on standardized tests such as the SAT....

In 1998 over 750 African American, Latino and Pilipino American applicants with grade point averages of 4.0 or better were denied admission. While white students with 4.0

GPA or better had a 48.2 percent chance of admission, Latino students had only a 39.7 percent chance, African American students a 38.5 percent chance and Pilipino students a 31.6 percent chance. (NAACP Legal Defense and Education Fund, 2003)

The case was settled because of UC's decision to use "comprehensive review" for every applicant. Faculty committees on each UC campus have developed criteria and procedures to be used in the review of all aspects of every application (UCOP, 2003b). Comprehensive Review assesses the applicant across a variety of broadly categorized academic and supplemental characteristics (e.g., in their specific context of their high school circumstances) (Horn & Marin, 2006). For example, at UC Berkeley, an applicant without AP credit from a high school in which most college-bound students take several AP courses would have his/her application downgraded in comparison to an applicant from a high school that did not offer AP courses (U.S. Department of Education, 2003).

Initially, the review process was quite controversial. In the Fall of 2002, the Chair of the UC Board of Regents, John Moores, released a report that was highly critical of the first freshman class admitted under Comprehensive Review. Many of the criticisms, however, could be quite reasonably explained. For example, half of the admitted applicants with SATs below 1,000 were in the top 4% of their high school class. Similarly, almost all of the rejected Berkeley applicants with high SAT scores either had "withdrawn their applications, applied to extremely competitive engineering programs, or faced stiffer competition because they were not California residents" (Equal Justice Society et al., 2003, p. 3).

Like ELC, Comprehensive Review may be a step in the right direction. Both potentially counteract, albeit to a small extent, the unequal access to K-12 educational opportunities faced by African Americans, Latinos, poor people and others. Data available show that these two measures, along with vigorous outreach efforts, have been associated with an increase in the proportion of underrepresented minorities in UC's freshman class since the low point reached in the Fall of 1998 (UCOP, 2003b).

### Race-Conscious Affirmative Action since *Grutter*

While the Supreme Court's decision is replete with caveats and conditions, *Grutter* permits race-conscious affirmative action in college admission. It is now possible to consider initiatives that will make access to higher education more equitable and that will result in a more racially and ethnically diverse student body. However, in order to do so, universities must now make the judgment that student diversity is essential to their educational mission. A racially and ethnically diverse student body promotes learning. Moreover, social justice and equity concerns demand that the racial and ethnic composition of university students look more like the composition of the college age population.

Supporters of affirmative action saw the *Grutter* decision as a victory affirming the right of universities to practice race-conscious affirmative action. However, the victory celebration seems to have been premature. The same individuals and groups that had spearheaded the legal attacks on affirmative action vowed to continue their efforts. For example, the National Association of Scholars has announced its intention to use open-records laws to examine how selective public

colleges are considering race and ethnicity in their admissions practices. The Center for Equal Opportunity and the Center for Individual Rights are also participating in this campaign (Schmidt, 2004). Legal challenges to voluntary desegregation plans provide additional evidence that race-conscious policies continue to be under attack. However, even though the U.S. Supreme Court's recent ruling in *Parents v. Seattle School District* and *Meredith v. Jefferson County* struck down the voluntary school integration plans in Seattle, Washington and Louisville, Kentucky, it upheld the ruling in *Grutter*. Moving forward, a great deal of careful research needs to be done to assess exactly how universities have implemented *Grutter*, what impacts these changes have had, and what can be learned by K-12 and higher education policymakers alike. However, even when affirmative action was practiced vigorously without fear of constant legal attack, minorities were severely underrepresented in colleges and universities. Now, in its more cautious form, we have to expect that affirmative action will have a more limited impact.

### Where Do We Go From Here?

Studying automatic admission policies such as the TTPP and the 4 percent plan is an important component in understanding the complexity of college admissions in a post-*Grutter* setting. Both of these percent plans were combined with vigorous recruitment efforts. Also, both had the advantage of being able to give potentially eligible juniors and seniors the certainty of admission if they met very clear and specific conditions. In Texas, these conditions included graduating in the top ten percent of their class, taking the SAT, and completing an application to UT Austin. In California, ELC students met analogous conditions plus completing the UC prerequisite coursework.

If UC's procedures were changed to replicate the success of the Texas plan, and to admit the top 12.5% of *each* high school based on class rank, then the eligibility pool would contain many more African Americans and Latinos. A simulation based not on the class rank of high school graduates, but on the Academic Index scores within each school, indicates that such an admission policy would likely increase African American eligibility to 6.6% and Latino eligibility to 7.2% (Geiser, 1998). There is nothing else being discussed or proposed that has the likely possibility of *doubling* the proportion of minorities admitted to a selective university.

California had 376,000 high school graduates in 2004. Of these, 116,000 had finished the A-G courses required by UC which enrolled 28,000 first-time freshmen, or about 25% of the A-G graduates (California Postsecondary Education Commission, 2005). There are many good reasons to think that many more than one quarter of these students could succeed at UC. The question is how to choose them. A random drawing among qualified applicants could itself be race neutral. It is very likely that the discriminatory and biased aspects of our educational system would have diminished the number of African Americans and Latinos among the 116,000 high school graduates who had completed the A-G requirements.<sup>7</sup>

---

<sup>7</sup> Graduate and professional schools typically face the same problem of having many more qualified applicants than they can admit. Many of these institutions typically use standardized test scores to choose the "best" among these applicants. This procedure typically minimizes the number of admitted African Americans and Latinos. A random drawing of qualified applicants would be a race-neutral means to increase the representation of these minorities.

California faces the special challenge of Proposition 209. This proposition prevents the University of California from practicing race-conscious affirmative action. (See California Secretary of State's Office, 1996.) If it should ever come about, an initiative to admit the top 12.5% of each California high school to UC in order to increase the number of minorities would likely be the target of legal action. However, the same initiative, if passed with the intent of democratizing access to UC by giving students from all socio-economic backgrounds access to UC, seems much less susceptible to a successful legal action.

Ultimately, the racial impact of various policies depends on the political context in which these policies are chosen and implemented. As debate continues around the parameters of the percent plans, careful consideration is required of how those programs (alone and in conjunction with outreach and retention services) affect racial/ethnic diversity at elite campuses. Additionally, states need to make available and researchers need to carefully monitor the implications of peripheral admissions policies, particularly for students starting at a community college with the intent to transfer. While beyond the scope of this chapter, the racial/ethnic effects on enrollment of broader policy issues such as decentralization of tuition need to be determined. Further, in-state tuition policies for undocumented immigrants in Texas may also result in important enrollment changes that need to be carefully studied. The different "race-neutral" policies at UC and UT produce results with widely disparate racial impacts. These results and a very large related literature suggest that nothing is race neutral.

## References

- Brief of the Authors of the Texas Ten Percent Plan as *Amici Curiae* in Support of Respondents, *Grutter v. Bollinger*, 539 U.S. 306 (2003) and *Gratz v. Bollinger*, 539 U.S. 244 (2003).
- California Postsecondary Education Commission. (2005). *California high school graduates enrolling as freshmen in public postsecondary education*. Retrieved on December 9, 2005, from <http://www.cpec.ca.gov/OnLineData/AtAGlance.ASP?3>.
- California Secretary of State's Office. (1996). *Analysis of Proposition 209*. California Legislative Analyst. Retrieved on June 7, 2007, from <http://vote96.ss.ca.gov/bp/209analysis.htm>.
- Castaneda v. Regents of the University of California, C 99-0525 SI (2003).
- Chapa, J. (2002). Affirmative action, X% plans and Latinos' access to higher education. In M. Suarez Orozco & M. Paez (Eds.), *Latinos remaking America* (pp. 375-88). Berkeley, CA: University of California Press.
- Darling-Hammond, L. (1998). Unequal opportunity: Race and education. *The Brookings Review*, 16(2), 28-32.
- Fischer, K. (2005, April 22). Class-rank plan faces trouble in Texas. *The Chronicle of Higher Education*, 51(33), p. A25.
- Geiser, S. (1998). *Redefining UC's eligibility pool to include a percentage from each high school: Summary of simulation results*. Oakland, CA: The University of California Office of the President.
- Gordon, R., Piana, L. D., & Keleher, T. (2000). *Facing the consequences: An examination of racial discrimination in U. S. public schools*. Oakland, CA: Applied Research Center.
- Grissom, B. (2005a, March 30). Lawmakers debate university admissions law. *The Associated Press State & Local Wire*. Retrieved on October 20, 2005, from <http://web.lexis.nexis.com>
- Grissom, B. (2005b, May 6). Tougher classes required under Senate's top 10 percent bill. *The Associated Press State & Local Wire*. Retrieved on October 20, 2005, from <http://web.lexis.nexis.com>
- Grutter v. Bollinger*, 539 U.S. 306 (2003).
- Hopwood v. State of Texas*, 78 F.3d 932 (5<sup>th</sup> Cir. 1996).
- Horn, C. L., & Flores, S. M. (2003). *Percent plans in college admissions: A comparative analysis of three states' experiences*. Cambridge, MA: The Civil Rights Project at Harvard University.
- Horn, C., & Marin, P. (2006). Reaping the benefits of *Grutter*: College admissions and racial/ethnic diversity. In P. Gandara, G. Orfield, & C. Horn (Eds.), *Expanding opportunity in higher education: Leveraging promise* (pp. 167-92). New York: State University of New York Press.
- Equal Justice Society, et al. (2003). *Facts and fantasies about UC Berkeley admissions: A critical evaluation of Regent John Moores' report*. Retrieved on June 11, 2007, from [http://www.fairtest.org/pr/UC\\_Regents\\_Report.html](http://www.fairtest.org/pr/UC_Regents_Report.html).
- Jaschik, S. (2007). 10 percent plan survives in Texas. *Inside Higher Education*. Retrieved on June 11, 2007, from <http://www.texastop10.princeton.edu/publicity/general/10%20Percent%20Plan%20Survives%20in%20Texas.pdf>.

- Klugman, J. (2005). The political economy of high status curricula: Inequalities in the distribution of advanced placement courses among districts and schools in California, 1997-2003. Paper presented at the American Sociological Association Meeting, Philadelphia, Pennsylvania.
- Meredith v. Jefferson County Bd. of Educ., 2007 WL 1836531 (June 28, 2007).
- Montejano, D. (2003). *Access to the University of Texas at Austin and the ten percent plan: A three-year assessment*. Retrieved November 26, 2003, from <http://www.utexas.edu/student/admissions/research/montejanopaper.html>.
- The NAACP Legal Defense and Education Fund, Inc. (2003). Settlement reached in suit over discriminatory admissions process at UC Berkeley. Retrieved on June 11, 2007, from <http://www.naacpldf.org/content.aspx?article=54>.
- Omi, M., & Winant, H. (1994). *Racial formation in the United States from the 1960s to the 1990s*. New York: Routledge.
- Orfield, G., & Lee, C. (2005). *Why segregation matters: Poverty and educational inequality*. Cambridge, MA: The Civil Rights Project, Harvard University. Retrieved on June 11, 2007, from [http://www.civilrightsproject.harvard.edu/research/deseg/Why\\_Segreg\\_Matters.pdf](http://www.civilrightsproject.harvard.edu/research/deseg/Why_Segreg_Matters.pdf).
- Orfield, G., & Yun, J. T. (1999). *Resegregation in American schools*. Cambridge, MA: The Civil Rights Project, Harvard University. Retrieved on June 11, 2007, from <http://www.law.harvard.edu/groups/civilrights/publications/resegregation99.html>.
- Parents Involved in Community Schools v. Seattle School Dist. No. 1, 2007 WL 1836531 (June 28, 2007).
- Schmidt, P. (2004, March 19). Not just for minorities any more. *Chronicle of Higher Education*. Retrieved June 11, 2007, from <http://chronicle.com/weekly/v50/i28/28a01701.htm>.
- Tienda, M., Cortes, K., & Niu, S. (2003). *College attendance and the Texas top 10 percent law: Permanent contagion or transitory promise?* Paper presented at the Conference on Expanding Opportunity in Higher Education sponsored by the Harvard Civil Rights Project, Sacramento, California, October 23-25, 2003.
- Tienda, M., Leicht, K., Sullivan, T., Maltese, M., & Lloyd, K. (2003). *Closing the gap? Admissions & enrollments at the Texas public flagships before and after affirmative action*. Retrieved June 11, 2007, from <http://www.texastop10.princeton.edu>.
- University of California Office of the President. (2003a). *Eligibility in the local context fact sheet*. Oakland, CA: University of California Office of the President. Retrieved on June 11, 2007, from <http://www.ucop.edu/news/cr/factsheet.pdf>.
- University of California Office of the President. (2003b). *Comprehensive review in freshman admissions: Fall 2003*. Oakland, CA: University of California Office of the President. Retrieved on June 11, 2007, from <http://www.universityofcalifornia.edu/regents/regmeet/sept03/302attach.pdf>.
- The University of Texas at Austin. (2005). *Implementation and results of the Texas automatic admissions law (HB 588) at the University of Texas at Austin*. Retrieved on November 24, 2005, from <http://www.utexas.edu/student/admissions/research/HB588-Report8.pdf>.

- U.S. Department of Education. (2003). *Achieving diversity: Race-neutral alternatives in American education*. Washington, DC: Office for Civil Rights. Retrieved on June 11, 2007, from <http://www.ed.gov/about/offices/list/ocr/edliteraceneutralreport2.html#toc3p9>.
- Walker, B. (2000). *The implementation and results of HB 588 at the University of Texas at Austin (Report Number 2)*. Retrieved January 17, 2000, from <http://www.utexas.edu/student/research/reports/admissions/HB58820000126.html>.

