Chapter 10

Lessons about College Admissions from the Texas Top 10% Law

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Since the mid-twentieth century, the policy debate about access and equity in higher

education has revolved around legally permissible means to achieve desired ends, and what is

necessary for educational opportunity to be equal. According to James S. Coleman, equal

educational opportunity means that children's educational prospects should not vary

systematically with group membership or according to their parents' financial resources.[1]

Specifically, this derives from three conditions: that education is *free;* that it is based on a

common curriculum; and that students from diverse backgrounds participate within the same

localities (schools). Coleman's conception of equal educational opportunity presumes that

parents do not incur costs when education is publicly funded; that the existence of a common

curriculum exposes all youth to equal amounts of comparable quality education; and that

separate is not equal. These conditions are profoundly significant because, were they feasible

through policy instruments, they would permit equal opportunity by uncoupling intergenerational

educational outcomes from positions in the class structure. If the *ideal* of equal educational

opportunity has been embraced philosophically and in political rhetoric, the empirical reality

indicates a work in progress.

During the 1960s, civil rights groups embraced the use of race-targeted admissions as a

strategy to broaden access to selective postsecondary educational institutions for

underrepresented groups. Cyclical backlash followed initial acceptance of racial preferences in

admissions. Political controversy played out in public referenda to outlaw race preferences in

California and Washington State, and in judicial decisions from *Bakke* to *Hopwood*.[2] These conflicts attest to the lack of social consensus about the *means* to equalize educational opportunity. And despite the 2003 Supreme Court decisions[3] affirming the constitutionality of narrowly tailored race preferences in college admissions, such practices remain highly controversial, partly because the stakes continue to rise as the demand for seats at the selective institutions grows and the college-age population becomes more diverse.[4]

Opponents of affirmative action have proposed three allegedly race-neutral alternatives to college admission, each with different implications for increasing race and ethnic diversity. The color-blind alternative considers only scholastic achievement, namely, high school grades and standardized test scores, with extracurricular activities, recommendation letters, and essays permitting admissions officers to choose among academically accomplished applicants. Ample research shows that high school grades are strong predictors of college success, but standardized test scores are problematic, flawed measures of academic merit because they are highly correlated with social class and have low predictive power beyond freshman grades.[5] Moreover, poor minority students are more likely than poor white students to attend underperforming schools, which, in turn, lowers their likelihood of reaching the admissions threshold on their College Board exams.

Use of class preferences also has been proposed as a race-neutral solution because minority students are more likely to hail from the lower rungs of the socioeconomic distribution. Preferences based on social class are more successful in drawing poor white than poor black and Hispanic students to selective institutions.[6]

The ineffectiveness of achievement and class-based solutions to diversify college campuses underscores one of the great dilemmas of equal educational opportunity, namely, that

family class background and *residential location* remain decisive in limiting options for groups historically excluded from elite postsecondary institutions. A third race-neutral alternative—admitting a fixed percentage of each school's class rank distribution—is a relatively recent development that can circumvent, to some extent, the constraints of family background and school quality based on residence. Such programs have been adopted by Texas, California, and Florida, and continue to be considered among the most viable alternative pathways to enhancing diversity at selective public college and universities (see Wilbur, chapter 4, this volume). However, systematic evaluation of changes in admissions and enrollment at Texas universities indicates otherwise.

In the remainder of this essay, I will summarize key lessons from the Texas percent plan for college admissions that has been in force since 1998 with an eye toward lessons that apply to public postsecondary education more broadly. I argue that a narrowly tailored consideration of race and ethnicity is the most *efficient* way to promote equity in access to selective postsecondary institutions because it achieves the desired end, while minimizing a host of unintended consequences. To make my case, I first review the provisions of the Texas "Top 10 Percent Law." Because the impact of the law can only be fully appreciated with respect to the college squeeze underway since before the law took effect, I provide a thumbnail sketch of the demographic changes that are related to the demand for higher education in Texas.[7] A major conclusion from this discussion is that underinvestment in higher education coupled with disproportionate growth of two-year relative to four-year institutions have intensified competition for the slots at the public flagships. Subsequently, I review four key findings based on comprehensive analyses of administrative and survey data that have implications for diversification of postsecondary public institutions nationwide—including application behavior,

high school quality, residential segregation, and spatial distribution—and the fallacy of assuming standardized test scores are a reliable measure of merit for purposes of college admission. I conclude with a brief overview of unintended consequences and lessons beyond Texas.

THE TEXAS UNIFORM ADMISSION LAW

Texas has a storied history of racial exclusion of Mexicans and African American in public schools, which was only curtailed through legal action by higher courts. In one of the most important precursors to the *Brown v. Board of Education*[8] decision, rather than admit an African American student (Herman Sweatt) to the University of Texas Law School in 1946, the state created a separate school of law, which a 1950 U.S. Supreme Court decision declared unconstitutional because it failed to meet "separate but equal" criteria.[9] Over thirty years later, in *Plyler v. Doe*, the Supreme Court struck down a Texas law that charged tuition to undocumented immigrant children seeking to attend public primary and secondary schools. Texas reached the national spotlight in higher education again in the mid-1990s for allegedly differential treatment of applicants to the University of Texas Law School, but this time, a white plaintiff (Cheryl Hopwood) complained that the school's use of affirmative action constituted reverse discrimination. When the Fifth Circuit Court of Appeals ruled in Hopwood's favor, race-based admissions were banned throughout the court's jurisdiction. In a written opinion to the chancellor of the University of Houston system (LO-97-001, 1997), Texas Attorney General Dan Morales interpreted the Hopwood ruling as a ban on racial and ethnic preferences not only for purposes of admission, but also for decisions regarding financial aid, scholarships, and retention programs, among the many institutional services and support offered to students.

The Fifth Circuit's *Hopwood* decision was effectively overturned in 2003 by the U.S.

Supreme Court in *Grutter v. Bollinger* (a similar case out of the University of Michigan), but in

the interim years, when the fate of affirmative action was highly uncertain, universities directly

affected by the judicial ban scurried to devise legally permissible criteria to maintain campus

diversity, while also protecting academic merit. In response to the judicial ban on racial

preferences imposed by *Hopwood*, the Texas legislature passed H.B. 588, which established the

uniform admission system guaranteeing automatic admission to any Texas public university to

students who graduate in the top decile of their class.[10] Building on the philosophical principle of

equal access coupled with strong empirical evidence that high school grades are strong predictors

of college success, the architects of H.B. 588, popularly known as the Top 10 Percent Law,

devised an allegedly "race neutral" system that not only rewards merit, but also draws high-

achieving students from all Texas high schools, irrespective of geographic location, ethno-racial

composition, or relative affluence.[11]

Three features define the Texas college admission regime legislated by H.B.588: (1) disregarding

standardized test scores for students who graduate in the top decile of their class; (2) allowing

high schools to devise criteria for ranking students, including whether and how to weigh honors

and advanced placement courses in computing GPA and class rank; and (3) permitting students

eligible for the admission guarantee to elect which public institution to attend. Each is germane

for understanding the potential of H.B. 588 to broaden geographic, socioeconomic, and ethno-

racial diversity to the public flagships—University of Texas at Austin (UT) and Texas A&M

University (TAMU). First, because African American and Hispanic students average lower

standardized test scores than whites, and test scores have been used as an exclusion criterion in

the legal debates about merit and admission, test scores are disregarded for students qualified for

automatic admission. [12] That qualification for the guarantee is established on a school-specific basis, which shifts competition for college slots *within* high schools rather than among schools that differ in affluence, composition, and college traditions. Finally, because students eligible for automatic admission are allowed to select their postsecondary institution, the influence of administrators in deciding whom to admit is diminished as a function of application behavior of rank-eligible students. [13]

In the court of public opinion, the uniform admission regime was initially applauded but soon became as controversial as the system it replaced, partly because it refocused debate from ascribed individual traits (e.g., race and ethnicity) to underperforming schools as the basis for exclusion. However, most claims of success were mere descriptions of freshman enrollees compared with the year (1997) when neither affirmative action nor the admission guarantee was in place. [14] Few evaluations considered how enrollment trends reflected shifts in the size and composition of the Texas high school graduating classes or institutional applicant pools. Both shifts will alter the success criteria of any admission regime.

In fact, three secular trends bear on the success of the Top 10 Percent Law in achieving its objectives to broaden socioeconomic, ethno-racial, and geographic access to the public flagships. [15] First, the number of Texas high school graduates has grown faster than the national average since the mid-1990s, and is projected to continue through the middle of the next decade. [16] Second, owing to differential fertility patterns and immigration, the state's high school graduates became more diverse. Whites currently comprise less than half of all diploma recipients in Texas. [17] Third, the expansion of postsecondary opportunities in Texas failed to keep pace with the state's burgeoning college-age population; moreover, most of the growth in college enrollment occurred in two-year rather than four-year institutions. [18] These three trends—the

state's underinvestment in higher education, surging demand for college, and rapid growth of high school graduates—intensified competition for slots at the two public flagships.

Because these three trends have been underway since the early 1990s, it is necessary to take them into consideration to avoid misattributing changes in enrollment to changes in the admission regime. Analyses of a decade of application, admission, and enrollment data for Texas public institutions, described next, underscore the importance of this point, particularly with respect to application behavior. Before outlining the key lessons from the Texas Top 10 Percent Law, I provide a brief summary of the multiyear study from which the lessons are drawn.

THE TEXAS UNIFORM ADMISSION REGIME: CLAIMS AND EVIDENCE

The Texas Higher Education Opportunity Project (THEOP) was initiated to evaluate the impact of the change in the admission regime brought about by the *Hopwood* decision. Since its inception, THEOP sought to understand the determinants of college-going behavior and decision making in broad terms—students' college plans, decisions to apply, enrollment behavior, and academic performance. THEOP collected two types of data: (1) surveys of representative samples of sophomores and seniors enrolled in Texas public high schools as of 2002; (2) administrative data for nine Texas universities that differ in the selectivity of their admissions over a ten-year period that spans three admission policy regimes: affirmative action, no preferences, and the uniform admission regime.[19]

Analyses based on administrative and survey data generated three key insights that have broad implications for diversification of public, postsecondary institutions. First, despite public controversy about criteria used in admission decisions, in fact, *application behavior* holds the key to diversification of college campuses in Texas along socioeconomic, geographic, and

demographic lines (this not necessarily the case in California; see Chang and Rose, chapter 5, this volume). Brown and Hirschman reached a similar conclusion for Washington State after ballot Initiative 200 banned affirmative action programs in the state. [20] Second, *high school quality* is a powerful predictor of not only who elects to pursue postsecondary education, but also who is likely to succeed in doing so. It does not follow, however, that highly ranked students from low-achieving schools will underperform in college, as alleged by many critics of the Top 10 Percent Law. Third, standardized *test scores are a poor measure of merit* when compared with performance-based measures like class rank. Although this finding is not original, it acquires special significance in the context of the uniform admission regime, because of allegations that the top-ranked students from low-achieving schools are less likely to succeed than lower-ranked students from competitive high schools. [21] Next I elaborate on each key finding and conclude with reference to the unintended consequences of the uniform admission law in the context of educational underinvestment.

Lesson One: Application Behavior

The debate about affirmative action has revolved around institutional admissions, to the relative neglect of two individual choices that precede and follow, namely, individual students' decisions about whether to apply and, if admitted, whether to enroll. Financial considerations weigh heavily in the latter decision, possibly more than in the application decision (because test and application fee waivers are available). The four studies that examined application behavior of Texas high school graduates underscore the critical importance of application decisions as a mechanism of campus diversification not only along ethnic and racial lines, but also geographically, as intended by the law. The change in admission regime was less effective in modifying the application behavior of high-achieving students of varying class backgrounds

compared with graduates from high schools with little tradition of sending students to the public flagships.

Long and Tienda analyze changes in the composition of the applicant pools at seven Texas universities after the top 10 percent admission guarantee was in force. [22] Given that the public flagships experience the greatest direct competition for slots, they find that the law had the largest direct impacts on UT and TAMU's applicant pools. Slots in the freshman class at UT went overwhelmingly to top 10 percent applicants, but TAMU's freshman classes were less dominated by top 10 percent students.[23] As the share of top 10 percent applicants rose at UT, average cohort SAT scores declined, partly because students guaranteed admission had less incentive to achieve the highest scores. The uniform admission regime also produced appreciable indirect effects on applicant pools statewide, contributing to increases in the average SAT scores of applicants to less selective institutions.

Long and Tienda's analyses of applicants did not consider changes in potential applicant pools, namely, the number of high school graduates. This is important because the number of diploma recipients overall, and the number of minority diploma recipients in particular, rose appreciably during the period they study. Accordingly, Harris and Tienda evaluate whether application rates to the public flagships of African American and Latinos changed after the admission guarantee was implemented. [24] To disentangle shifts in applicant pools resulting from increases in the size of graduating classes from behavioral responses to the uniform admission regime, the authors compute high school–specific application rates for three periods: pre-Hopwood; 1997—the year no preferences were in force; and the top 10 percent regime.

Harris and Tienda's simulations of gains and losses of African American, Hispanic, Asian, and white students at each stage of the college pipeline reveal that changes in the size and

composition of high school graduation cohorts, not admission criteria, were primarily responsible for restoring diversity at the Texas public flagships. In contrast to claims based on changes in the composition of successive *applicant pools*, they show that African American and Hispanic *application rates* to UT and TAMU fell after affirmative action was outlawed. Moreover, the minority disadvantage relative to whites widened over time owing to faster growth in the number of African American and Hispanic high school graduates compared with whites. Thus, African American and Hispanic application rates actually worsened under the uniform admission regime compared with the pre-*Hopwood* period. Harris and Tienda further illustrate how changes in application behavior reverberate through the admission and enrollment outcomes that policy analysts and admissions officers monitor with great interest.

Architects of the Top 10 Percent Law were well aware that a handful of Texas high schools sent very large numbers of students to the public flagships and that hundreds of schools did not send a single applicant, or if they did, they were not represented among enrollees.[25] Broadening geographic representation at the public flagships was an explicit objective of H.B.588, which is facilitated by a design that establishes eligibility for the admission guarantee on a school-specific basis (similar to the spirit of California's admissions mandate discussed in Wilbur, chapter 4, this volume). Reasoning that the transparency of the uniform admission law eliminates the guesswork about admission chances for top-ranked students, Long, Saenz, and Tienda evaluate whether high school sending patterns to the Texas public flagships changed in response to the Top 10 Percent Law.[26] Because the number of high schools increased over time, they consider whether the share of high schools that sent applicants rose and, concomitantly, whether the applicant pools represent greater geographic and socioeconomic diversity.

Long and associates find that the uniform admission regime broadened geographic access to UT, which is evident both in the number of schools represented in the applicant pool and in the geographic representation of the applicants. They did not find a similar impact in feeder patterns for TAMU—in part because its feeder patterns were more diverse prior to the Top 10 Percent Law and in part because TAMU's agricultural mission connects it with a larger swath of the state through the agricultural extension service. The differential impact at UT and TAMU is grounded in a provision that allows rank-eligible students to select their preferred campus. This feature, along with the school-specific designation of rank-eligible students, distinguishes the more generous Texas percent plan from those implemented in California and Florida.

Although the uniform admission law was fairly successful in enhancing the geographic diversity of the applicant pool, it appears to have been less successful at enhancing the socioeconomic diversity of the applicant pool at either flagship. Koffman and Tienda sort high schools into three economic strata based on the composition of their student body and compare stratum-specific application rates before and after the admission guarantee was legislated. [27] Not surprisingly, they find that top-ranked students from affluent high schools are significantly more likely than their rank counterparts who attended poor schools to seek admission at one of the public flagships. As important, they show that the socioeconomic composition of applicant pools is remarkably resistant to change, and that the admission guarantee did little to raise flagship application rates from poor high schools.

Like other analysts, Koffman and Tienda find that the uniform admission law did not have uniform impacts across postsecondary institutions. [28] At UT, graduates from the most affluent high schools drove the surge among applicants eligible for automatic admission. Although applications from poor high schools also rose, the increase was less dramatic.

Concomitantly, TAMU witnessed a drop in application rates from students eligible for automatic admission, but particularly those who attended poor high schools. The drop in TAMU application rates from top 10 percent graduates partly reflects the law's provision that allows students to select their preferred institution, thus eliminating the need to apply to universities ranked lower in their choice set. These findings highlight the need to target recruitment efforts for talented students who attend resource-poor high schools where the college-going traditions are less deeply entrenched.[29] This prompts the second major lesson concerning links between secondary and postsecondary schools.

Lesson Two: High School Quality

Controversy about whether and how school characteristics influence academic outcomes date back to the landmark Coleman report, which concluded that family socioeconomic status has a far greater influence on educational outcomes than any measured school characteristics.[30] Despite technical advances in modeling techniques, detecting high school influences on student academic outcomes has proven to be methodologically challenging. Yet, the great heterogeneity in the quality of Texas public schools coupled with the fact that minority students are disproportionately concentrated in low-performing, resource poor high schools suggests that differences in the types of high schools minority students attend contribute significantly to observed collegiate performance gaps.

Hill claims that racial and ethnic variation in college enrollment partly reflects differences in high schools' commitment to linking students to postsecondary institutions, a claim buttressed by analyses of Texas data.[31] Using a regression discontinuity design, for example, Niu and Tienda show that the uniform admission law increased flagship enrollment of rank-eligible graduates from high schools where minority students predominate and from high

schools with the state average share of economically disadvantaged students—precisely the types

of schools that are poorly represented on the TAMU and UT campuses.[32] In an earlier study,

these authors argue that the socioeconomic status and college orientation of high schools are

more decisive than class rank in determining how students set their college sights, how broadly

they cast their application nets, and ultimately, how they weigh various college attributes in

ranking their college preferences.[33] Not surprisingly, graduates from feeder high schools with

strong college-going traditions seek to attend the most selective institutions, including private

out-of-state institutions as well as the Texas public flagships, to a much greater extent than

graduates from resource-poor high schools.

    Niu and Tienda find that class rank does not significantly delimit students' college choice

sets or how they rank their alternatives.[34] At first blush, this finding appears to undermine the

image of the Texas Top 10 Percent Law's success in broadening college access. Their finding is

not inconsistent, however, because an admission guaranteed cannot assure enrollment for

financially strapped students, even those at the top of their class. In fact, they show that

graduates from resource-poor high schools where the public flagships offered scholarships to

top-ranked students were significantly more likely to include a flagship institution among their

college preferences compared with their classmates from schools where financial supports were

not available.

    It stands to reason that the influences of high school quality also carry over into college

academic performance. In fact, many critics of the Top 10 Percent Law argue that it unfairly

privileges high-achieving students from low-performing schools who allegedly are ill prepared

for college work.[35] Few empirical analyses have demonstrated such influences, however, largely

because of data constraints. Fletcher and Tienda show that students who begin college with one

or more high school classmates reap greater academic benefits, as measured by freshman grades and retention, relative to those who are sole representatives of their high school.[36] Moreover, academic benefits associated with same-school peers appear to be larger for African American and Hispanic students than for white students.

Another paper by Fletcher and Tienda analyzes administrative data from four public Texas institutions to consider whether racial and ethnic gaps in college academic performance can be traced to group differences in the types of high schools attended.[37] Using a fixed-effects estimation strategy that compares students who attended *the same high school*, Fletcher and Tienda show that African American–white and Latino–white college performance gaps are mostly eliminated and often reversed. By restricting comparisons to students who attend the same school, they find trivial African American–white and Hispanic–white gaps in several measures of college achievement. In many instances, minority students actually *outperform* their white counterparts who attend similar schools. Their findings, which are quite robust across universities of varying selectivity, illustrate the profound consequences of high school quality on differences in human capital among African American, Hispanic, and white college freshmen.

Finally, Niu and Tienda also find that the economic status of high schools is largely responsible for group differences in academic performance at UT.[38] This finding directs attention to the problem the Top 10 Percent Law was designed to address, namely, broadening college access across economic, demographic, geographic, and social groups.[39] They illustrate how the admission guarantee for top 10 percent graduates resulted in a gradual displacement of students ranked at or below the third decile, as UT became saturated with applicants eligible for automatic admission. Although enrolled students who graduated in the thirtieth percentile or lower of their high school class averaged appreciably higher test scores than top 10 percent

minority students and top-ranked graduates from resource-poor high schools, Niu and Tienda find that the top 10 percent students outperformed the lower-ranked comparison group. Conceivably, the academic performance of graduates from resource-poor schools would be higher still if they benefited from the academic preparation enjoyed by their counterparts from affluent feeder schools. This may not be feasible in the short run, of course, but evidence showing that top 10 percent graduates from resource-poor high schools succeed in college raises questions about the criteria used to define merit for purposes of college admissions, which relates to a third major lesson from the bold Texas experiment.

Lesson Three: Redefining Merit

One of the most contested issues in college admissions concerns the definition of merit. Although a variety of admissions processes at many colleges and universities tout full file review and other methods to ensure that no single factor is decisive in predicting the likelihood of admission, in fact, high school grades and standardized test scores are the two most influential factors in these decisions. Despite substantial evidence that test scores are less reliable indicators of college success than grades and class rank, Alon and Tienda show that selective institutions have been placing heavier weight on SAT and ACT scores relative to high school grades in admissions decisions.[40] Alon and Tienda argue that the emphasis on test scores increases the need for race preferences in order to maintain campus diversity because African Americans and Latinos average lower scores than their white and Asian counterparts.

To make their case, Alon and Tienda conduct statistical simulations that exclude test scores from the admission decision and illustrate that greater reliance on high school grades rather than test scores permits institutions to achieve diverse student bodies without compromising graduation rates.[41] Because the Texas uniform admission regime disregards test

scores for students eligible for the admission guarantee, they verify their simulation results based on the experience of top 10 percent applicants to UT.[42]

Because the quality of Texas high schools is very heterogeneous, critics of the law have alleged that top-ranked applicants from low-performing high schools are ill prepared for the challenges of selective colleges than lower-ranked graduates from highly competitive high schools. Niu and Tienda evaluate this proposition by comparing collegiate academic performance of students granted automatic admission to UT relative to lower-ranked graduates from affluent Texas public high schools.[43] They show that even though African American and Hispanic top 10 percent graduates attend lower-quality schools, they consistently achieve higher college grades and are more likely to graduate in four years than their lower-ranked white classmates with a large test-score advantage. These results reaffirm the claim of former UT President Larry Faulkner, who boasted success of the uniform admission law because ". . . top 10 percent students at every level of the SAT earn grade point averages that exceed those of non-top 10 percent students having SAT scores that are 200 to 300 points higher."[44]

To strengthen the external validity of their conclusions, Niu and Tienda analyze administrative data for five Texas universities that differ in selectivity, focusing on predictive power of high school class rank and standardized test scores on collegiate academic achievement.[45] They affirm that high school class rank is a superior predictor of college performance than standardized test scores. Furthermore, at all five universities analyzed, large test-score advantages do not insulate students with low class rank from academic underperformance.

In the face of mounting opposition to the law, in 2007 the Texas legislature considered several bills to modify the uniform admission law. Niu and Tienda also conducted simulations to

evaluate whether and how changing the criteria for automatic admission would influence the composition of UT's applicant pool. [46] Their analysis reveals that capping automatic admits based on high school class rank would have roughly uniform impacts across schools that differ in economic status, but imposing a minimum test score threshold (as proposed in one bill) would greatly reduce the admission eligibility of the highest performing students from poor high schools with historically low rates of college attendance, while not jeopardizing the admission eligibility of students from feeder and affluent high schools. Given mounting evidence that test scores are inferior predictors of college success, and that students admitted based on prior academic accomplishments are more likely to succeed in college, the Texas experiment suggests that colleges and universities will be better served by emphasizing behavioral measures of merit, notably high school grades, over standardized tests in diversifying their campuses.

CONCLUSIONS

Initially embraced as a race-neutral alternative to affirmative action, the Texas top 10 percent policy has become as controversial as the system it replaced. This is largely because of the state's underinvestment in higher education at a time that the college-eligible population grew faster than the national average.[47] Architects of the uniform admission law ignored demographic trends showing that the demand for college would increase through 2010 as the children of baby boomers entered the postsecondary system.[48] In Texas, the college squeeze has been particularly intense not only because immigration has accentuated the increase of college-age students as the second generation comes of age, but also because the growth of enrollment at two-year institutions had surpassed that of four-year institutions even before the *Hopwood*

decision. This signal of intensified competition for access to the public flagships was not considered in the design of the law.

There is, of course, great appeal to the idea of a uniform admission law. Contrary to widespread belief, however, the diversification of the state's college-age population, rather than the provisions of the law, was largely responsible for restoring ethno-racial diversity to the public flagships. Simplistic comparisons of changes in the composition of enrollees before and after the change in admission criteria presume no change in the supply of potential applicants, a presumption contradicted by trends in the size and composition of succeeding cohorts of high school graduates. In fact, one of the major lessons from research based on THEOP and others in this volume (see Mehan et al., chapter 9, and Brown et al., chapter 7) is that campus diversity can be significantly improved by *focusing on application behavior* through outreach to students attending schools with low college-going traditions. Not only does this focus divert attention from institutional decisions to consider nonacademic criteria in their admission decisions, but it also greatly increases the chances of identifying talented students who are unlikely to apply because they believe their chances of acceptance are low or because their school administrators are preoccupied with high school graduation rather than college enrollment. Analyses of application behavior reveal large numbers of students missing from the application pool despite eligibility for automatic admission.

Two additional lessons concern the links between *high school quality* and the *merit criteria* used to ration limited slots at selective institutions, particularly in the face of growing demand for access. High school quality is associated with the likelihood of seeking admission, but it does not follow that high-achieving graduates from resource-poor schools are ill prepared to succeed in college. In fact, despite their lower average test scores, top-ranked graduates from

low-income high schools outperform students from affluent schools, if given a chance to do so. Unfortunately, test scores have become a mechanism of exclusion at the admission stage, unless applicants are given an admission boost. The Texas uniform admission regime provides compelling evidence that selective institutions seeking to diversify their campuses will be well served by disregarding test scores for students who graduate at the top of their class. I am not advocating a total disregard for all students, but rather acknowledgment of the superior predictive power of high school grades, particularly for students who graduate at the top of their high school class.[49] Admissions officers evaluating the likely success of individuals in college will be well served by emphasizing class rank over test scores as a behavioral measure of achievement, because rank captures drive and other unobservable attributes that are highly correlated with academic success, irrespective of social background.[50] A similar claim cannot be made for standardized test scores.

Two additional lessons from the Texas response to the judicial ban on affirmative action that have broad implications for selective institutions that seek to enhance access to underrepresented social, geographic, and demographic groups, while furthering academic excellence. Several provisions of the law have produced unintended consequences that subvert the ability of institutions to shape their incoming classes. First, the selection of the 10 percent threshold was neither clearly justified nor ever measured against the carrying capacity of the state's postsecondary system, particularly its four-year institutions. As a consequence of rapid growth in the demand for postsecondary slots coupled with the provision that allows students to designate their preferred public institution, UT has been saturated with applicants eligible for automatic admission. This has crippled the institution's ability to shape a diverse class in the

broadest sense, which considers athletic and artistic talent, as well as balance in the distribution of intended fields of study.[51]

Second, the rationale for allowing students eligible for automatic admission to select their institution, rather than allowing for institutional participation in those decisions for reasons of balance and equity, compromised the ability of the flagships to achieve the desired institutional goals. As top 10 percent graduates shifted their sights from Texas A&M at College Station, the state's other public flagship, UT became saturated with automatically admitted students. Clearly, the uniform admission regime did not produce uniform impacts at both public flagships. Even as the share of top 10 percent enrollees exceeded three-fourths of the student body, legislators were reluctant to modify the law either by rescinding the provision that allowed students to select their campus, by pegging the threshold of students guaranteed admission to the growing applicant pool (e.g., top 5 percent), or by capping the number of students guaranteed admission at all public institutions.

Twelve years after its implementation, the Top 10 Percent Law remains in force because of widespread beliefs that it broadens access to the public flagships. Its biggest supporters are representatives from urban minority districts and white rural areas, where relatively few students sought admission to the public flagships prior to the top 10 percent admissions regime. The law shifted the postsecondary debate about merit and access from *individuals* to *schools* by redirecting the discussion from concerns about individual attributes—namely race and Latino origin—to school characteristics, notably school performance and school resources. Although our research decisively refutes claims that the law gives under-qualified students access to the state's most selective institutions, states considering a uniform admission plan for college

admissions need to consider whether the institutional priority is to achieve ethno-racial diversity, geographic representation, or socioeconomic variation.

Because an admission guarantee does not ensure enrollment, one should not expect socioeconomic diversity in the applicant pool without rigorous outreach to high schools with weak traditions of college attendance coupled with commensurate financial support to yield socioeconomically diverse enrollment. Given the growing focus on school quality by opponents of the Top 10 Percent Law, Domina's finding that postsecondary policy has the potential to modify school climate is particularly noteworthy.[52] He finds that the expansion of financial aid coupled with the implementation of a transparent admission regime fostered lower absentee rates, higher test-taking rates, and college enrollment at underresourced schools. Because the highly stratified system of U.S. high schools is not likely to be changed in the short term, Domina argues for strengthening ties between postsecondary institutions and underresourced high schools as an interim strategy to cultivate college-going cultures (see Mehan et al., chapter 9, this volume for a unique example of this).

In sum, Texas's experience with the uniform admission regime clearly illustrates that a class-rank percent plan does not increase ethno-racial diversity, even in a predominantly minority and residentially segregated environment like Texas. Nevertheless, it does broaden the geographic representation of applicants and incoming students. Presumably, this results by increasing the transparency of the admissions requirements to students from high schools with low rates of college enrollment. It is the desire for geographic representation that has maintained an unusual, strange political alliance that prevents rescission of the Top 10 Percent Law, despite its substantial unintended consequences. In terms of the original goal to increase racial and ethnic diversity at public postsecondary institutions, there is growing agreement that narrowly

tailored racial preferences are a much more efficient way to achieve racial or ethnic diversity than top X percent plans.

ENDNOTES

[1] James Coleman, "The Concept of Equality of Educational Opportunity," in *Equality and Achievement in Education*, eds. Marta Tienda and David. B. Grusky (Boulder, CO; San Francisco, CA; and London: Westview Press, 1990), pp 17-30.

[2] *University of California Regents v. Bakke*, 438 U.S. 265 (1978); *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996), *cert. denied*, 518 U.S. 1033 (1996).

[3] *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Gratz v. Bollinger*, 539 U.S. 244 (2003) determined that it is unconstitutional to give applicants an admission boost by assigning them a fixed number of points to increase their odds of admission.

[4] Sigal Alon and Marta Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education," *American Sociological Review* 72, no. 4 (2007): 487; Marta Tienda and Teresa Sullivan, "The Promise and Peril of the Texas Uniform Admission Law," in *The Next Twenty Five Years? Affirmative Action and Higher Education in the United States and South Africa*, eds. Martin Hall, Marvin Krislov, and David L. Featherman (Ann Arbor: University of Michigan Press, 2009).

[5] William G. Bowen and Derek Bok, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions* (Princeton, NJ: Princeton University Press, 1998); Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education" ; Sunny X. Niu and Marta Tienda, "Minority Student Academic Performance under

the Uniform Admission Law: Lessons from the University of Texas at Austin," *Educational Evaluation and Policy Analysis* (forthcoming).appeared already—2010, vol 29, no. 1, pp. 84-110.

[6] Bowen and Bok, *The Shape of the River*.

[7] Tienda and Sullivan, "The Promise and Peril of the Texas Uniform Admission Law."

[8] *Brown v. Board of Education*, 347 U.S. 483 (1954).

[9] *Sweat v. Painter*, 339 U.S. 629 (1950). Separate but equal was mandated by *Plessy v. Ferguson*, 163 U.S. 537 (1896) until struck down by *Brown v. Board of Education*, 347 U.S. 483 (1954); Dwonna Goldstone, *Integrating the 40 Acres: The 50-year Struggle for Racial Equality at the University of Texas* (Athens: University of Georgia Press, 2006).

[10] http://www.utexas.edu/student/admissions/research/HB588Law.html.

[11] David Montejano, "Access to the University of Texas at Austin and the Ten Percent Plan: A Three-year Assessment" (Austin: University of Texas, Austin, 2001),
http://www.utexas.edu/student/admissions/research/montejanopaper.html; A. Giovanola, "Irma Rangel," Women's Legal History Project,
http://womenslegalhistory.stanford.edu/papers05/Rangel_bio_Giovandola.

[12] Bowen and Bok, *The Shape of the River*; Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education"; Niu and Tienda, "Minority Student Academic Performance under the Uniform Admission Law."

[13] An unintended consequence of this provision is the saturation of the UT-Austin campus with students eligible for automatic admission. Peter Schmidt, "New Twists Mark the Debate Over Texas' Top 10-Percent Plan," *The Chronicle of Higher Education*, Government and Politics section, June 6, 2008; Ralph K. M. Haurwitz, "Judge Considers Legality of UT Admissions Policy: Lawsuit Seeks to Bar University's Consideration of Race, Ethnicity," *Austin American-Statesman*, May 20, 2008. Between 1997 and 2008, the share of the freshman class automatically admitted to UT rose from 41 percent to 81 percent; Tanya Schevitz, "Texas Chancellor Selected to Lead UC," *San Francisco Chronicle*, March 21, 2008. After several attempts to modify the uniform admission law, UT was allowed to cap the number of students admitted automatically at 75 percent, well below the 50 percent level sought by administration.

[14] Montejano, "Access to the University of Texas at Austin and the Ten Percent Plan"; Rita Barr, "Top 10 Percent Policy: Higher Education Diversity after *Hopwood*," *Interim News*, no. 77-9 (Austin: Texas House of Representatives, House Research Organization, 2002).

[15] Giovanola, "Irma Rangel."

[16] Western Interstate Commission for Higher Education, *Knocking at the College Door: Projections of High School Graduates by State, Income, and Race/Ethnicity, 1992 to 2022* (Boulder, CO: author, 2008).

[17] Tienda and Sullivan, "The Promise and Peril of the Texas Uniform Admission Law."

[18] Texas differs from the nation as a whole and many other states in the large share of postsecondary enrollment at two-year institutions (see Tienda and Sullivan, "The Promise and Peril of The Texas Uniform Admission Law," for more detailed discussion.

[19] The survey data senior cohort was interviewed three times (2002, 2003, and 2006) with 13,803 students in the first wave, and the sophomore cohort was interviewed in 2002 and 2004, with 19,969 participants in the first wave. The administrative data contain records collected by the universities at the time that students applied to their institutions, as well as students' transcript files that can be linked to the application records. A detailed description of these data and papers that have used these data can be found at http://theop.princeton.edu/.

[20] Susan K. Brown and Charles Hirschman, "The End of Affirmative Action in Washington State and its Impact on the Transition from High School to College," *Sociology of Education* 79, no. 2 (2006): 106.

[21] Bowen and Bok, *The Shape of the River*; Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education."

[22] Mark C. Long and Marta Tienda, "Changes in Texas Universities' Applicant Pools after the Hopwood Decision," *Social Science Research* 39, no. 1 (2010): 48; Mark C. Long and Marta Tienda, "Beyond Admissions: Lessons from Texas," *The Annals of the American Academy of Political and Social Science* 627 (2010): 6.

[23] Tienda and Sullivan, "The Promise and Peril of the Texas Uniform Admission Law."

[24] Angel Harris and Marta Tienda, "Minority Higher Education Pipeline: Consequences of Changes in College Admissions Policy in Texas," *The Annals of the American Academy of Political and Social Science* 627, no. 1 (2010):60.

[25] Giovanola, "Irma Rangel"; Montejano, "Access to the University of Texas at Austin and the Ten Percent Plan."

[26] Mark C. Long, Victor Saenz, and Marta Tienda, "Policy Transparency and College Enrollment: Did the Texas Top 10% Law Broaden Access to the Public Flagships?" *Annals of the American Academy of Political and Social Science* 627 (2010): 82.

[27] Dawn Koffman and Marta Tienda, "Missing in Application: The Texas Top 10% Law and Campus Socioeconomic Diversity" (paper presented at the annual meeting for the American Educational Research Association, New York, April 2008 (THEOP Working Paper Texas Higher Education Opportunity Project), http://theop.princeton.edu/reports/wp/ApplicantSocialClass.pdf.

[28] Harris and Tienda, "Minority Higher Education Pipeline," 60; Tienda and Sullivan, "The Promise and Peril of The Texas Uniform Admission Law"; Niu and Tienda, "Minority Student Academic Performance under the Uniform Admission Law."

[29] Lori D. Hill, "School Strategies and the 'College Linking' Process: Reconsidering the Effects of High Schools on College Enrollment," *Sociology of Education* 28 (2008): 53.

[30] James S.Coleman, Ernest Q. Campbell, Carol J. Hobson, James M. McPartland, Alexander J. Mood, Frederic D. Weinfeld, and Robert L. York, *Equality of Educational Opportunity* (Washington, DC: U.S. Government Printing Office, 1966).

[31] Hill, "School Strategies and the 'College Linking' Process."

[32] Niu and Tienda, "The Impact of the Texas Top 10% Law on College Enrollment."

[33] Sunny X. Niu and Marta Tienda, "Choosing Colleges: Identifying and Modeling Choice Sets," *Social Science Research* 37, no. 2 (2008): 416.

[34] Ibid.

[35] See Niu and Tienda, "Minority Student Academic Performance under the Uniform Admission Law."

[36] Jason M. Fletcher and Marta Tienda, "High School Classmates and College Success," *Sociology of Education* 82, no. 4 (2009): 287.

[37] Jason M. Fletcher and Marta Tienda, "Race and Ethnic Differences in College Achievement: Does High School Attended Matter?" *The Annals of the American Academy of Political and Social Science* (2010):144.

[38] Niu and Tienda, "Minority Student Academic Performance under the Uniform Admission Law."

[39] Giovanola, "Irma Rangel."

[40] Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education."

[41] Ibid.

[42] Applicants are required to submit test scores for their files to be considered complete, but the scores are disregarded for purposes of admission.

[43] Niu and Tienda, "Minority Student Academic Performance under the Uniform Admission Law."

[44] Larry R. Faulkner, "'Top 10 Percent' Helps Students," *San Antonio Express News*, October 25, 2000.

[45] Sunny X. Niu and Marta Tienda, "Testing, Ranking and College Performance: Does High School Matter?" (paper presented at the annual meeting for the Population Association of America, Dallas, Texas, April 15–17, 2010).

[46] Ibid.

[47] Tienda and Sullivan, "The Promise and Peril of The Texas Uniform Admission Law."

[48] Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education."

[49] Use of class rank rather than actual GPA minimizes the influence of grade inflation, particularly in the growing number of situations where students achieve GPAs in excess of the maximum owing to the higher weights applied to honors and advanced placement courses.

[50] Niu and Tienda, "Testing, Ranking and College Performance"; Alon and Tienda, "Diversity, Opportunity and the Shifting Meritocracy in Higher Education"; Bowen and Bok, *The Shape of the River.*

[51] Tienda and Sullivan, "The Promise and Peril of the Texas Uniform Admission Law."

[52] Thurston Domina, "Higher Education Policy as Secondary School Reform: Texas Public High Schools after 'Hopwood,'" *Educational Evaluation and Policy Analysis* 29, no. 3 (2007): 200.