Analysis of the Texas Ten Percent Plan

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The Kirwan Institute works to create a just and inclusive society where all people and communities have opportunity to succeed.
**Hopwood v. Texas - A. Background and Decision**

In 1992, four White students, including Cheryl Hopwood, filed a lawsuit against the University of Texas, which claimed that they had been denied admission to the law school on the basis of their race. They claimed that their academic credentials were such that they would have been admitted if they had been minority candidates (Thompson & Tobias 2000). In 1994, a ruling was handed down by the District Court in favor of the defendants, protecting the state’s interest in diversity in higher education (Bucks 2003). Upon appeal by the plaintiffs, however, the case became a landmark that would shape policy and debate in Texas for years to come.

On March 18, 1996, the U.S. Court of Appeals for the Fifth Circuit ruled in favor of the plaintiffs, striking down the use of race based affirmative action programs at the University of Texas. Specifically, the court rejected the school’s upholding of such policies with intention to achieve a diverse student body, ruling that no such “compelling interest” fell within the Fourteenth Amendment (Hopwood v Texas). Diversity, the court said, remains a non-remedial interest, and racial classification in any form is only permissible in cases of direct rectification of past wrongs. In fact:

> “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. Diversity fosters, rather than minimizes, the use of race.” (Hopwood v Texas)

While not stipulating exactly how qualifications should be judged or how admissions decisions are made, the court urged admissions officials to realize a broader conception of diversity in their decision making. It referred to race as a “dangerous proxy” which state entities should ultimately strive to avoid, both in admissions decisions and in financial aid decisions (Dickson 2006). The court clearly rejected both the real and cumulative effects of “past wrongs” in its decision, including Texas’ long history of racial segregation in primary and secondary schooling. Official segregation continued in many cities until court mandates finally stopped the practice (only in 1970 in Dallas and 1980 in Austin), while de facto segregation remains strong across the state (Thompson & Tobias 2000). The court, however, summed up its philosophy by decreeing that “one gets beyond racism by getting beyond it now” (Hopwood v Texas). Though the state attempted to appeal the Court of Appeals’ decision, the Supreme Court of the United States refused the case.
Effects of the Ruling

Although the plaintiffs in the Hopwood case specifically challenged only the University of Texas Law School, by nature of the appeals process, the case was brought to the United States Fifth Circuit and thus applied to the states of Texas, Louisiana, and Mississippi (Cavanagh 2003). On February 5, 1997, Dan Morales, Attorney General of Texas, cemented the ramifications of the decision by explicitly extending the legislation’s provisions to prohibit all institutions of higher education in Texas from considering race or ethnicity in making admissions or financial aid decisions (Thompson & Tobias 2000).

During the year directly following the Hopwood ruling (1997), the Texas flagship institutions of the University of Texas at Austin (UT) and Texas A&M University (also the only institutions in Texas which made explicitly race-conscious admissions decisions prior to Hopwood) saw sharp declines in the percentages of minorities applying and entering their freshmen classes. The levels of minority applicants to UT in 1997, for example, fell by approximately 10% compared to 1996 (Dickson 2006). Understandably, enrollment suffered as well, with Hispanic freshmen enrollment falling from 14.7% in 1995 to 12.6% in 1997 and Black enrollment falling from 4.9% to 2.7% in the same time period. At the College Station campus of A&M, the effects were just as drastic, with Hispanic enrollment down to 9.7% from 14.7% and Black enrollment under 3% from 4.7% (Tienda & Niu 2006a). Moreover, percentages of minorities applying to college in general and taking college admissions tests in Texas dropped following the ban on affirmative action (Dickson 2006). University officials, lawmakers, and many in the general public felt that something needed to be done.

The Texas Higher Education Coordinating Board’s (THECB) Report on the Effects of the Hopwood Decision on Minority Applications, Offers and Enrollments at Public Institutions of Higher Education in Texas, requested by the legislature in 1997 and published in November 1998, substantively illustrates these enrollment declines. The report makes a specific case that minority under-representation in higher education is part of a pattern of diminished diversity at each step of the educational pipeline. Thus, the first of its recommendations to the legislature is to “help public schools create a diverse and academically prepared undergraduate applicant pool,” stressing the need for effective diversity action plans to encompass institutions throughout the educational system (THECB 1998). This report, along with other studies from both THECB and the Center for Demographic and Socioeconomic Research at Texas A&M, helped spur the legislature to adopt a plan- formulated by a special task force- to utilize socioeconomic factors to form a sort of “class-based affirmative action” to combat the effects of the Hopwood ruling while complying with its stipulations.
Texas House Bill 588 (Texas Ten Percent Law) - Development of the Law

The task force that formed to address the Hopwood ruling was made up of professors from both the University of Texas and the University of Houston, two University of Texas students, an attorney from the Mexican-American Legal Defense and Education Fund (MALDEF), and representatives from the offices of state Senator Gonzalo Barrientos and state Representative Irma Rangel (Thompson and Tobias 2000). At a “Hispanic Summit on Affirmative Action Policies” organized by Senator Barrientos on September 6, 1996, two plans to enhance campus diversity were introduced which would eventually be combined to form the Texas Ten Percent Plan.

One plan, introduced by MALDEF attorney Al Kauffman, encompassed a list of fifteen factors that admissions officers should consider along with GPA and test scores (Thompson and Tobias 2000). This plan seemed too vulnerable, however, by allowing university officials to continue to pick whichever variables they wished. The most promising approach was suggested by UT professor David Montejano, who proposed that any applicant who graduated within the top 10% of his or her high school class be admitted to a Texas flagship institution (Thompson and Tobias 2000). This method had actually been used in the 1980s at UT but was abandoned to curb inflated enrollments. Because of Texas’ highly racially segregated high schools, such a plan, it was thought, should increase racial as well as economic diversity in higher education in Texas. Perhaps most importantly, the Ten Percent Plan was “simple, fair, [and] predictable” (Montenejo 1998).

These two plans were eventually combined and expanded (the Ten Percent Plan was originally only intended to apply to flagship institutions) to form Texas House Bill (HB) 588, sponsored by Representative Irma Rangel, and its companion Senate Bill (SB) 177, sponsored by Senator Gonzalo Barrientos. The bill passed the House on April 16, 1997, and passed the Senate on May 8, 1997. George W. Bush, then governor of Texas, signed the bill into law on May 20, 1997. He would not fully endorse the bill until after it had passed the legislature, perhaps as an attempt to gain favor in the Hispanic community (Thompson and Tobias 2000). Nevertheless, the Texas Ten Percent Plan, as it had come to be known, became effective on September 9, 1997.

Ramifications of the Law

The Texas Ten Percent Plan, formally titled “an act relating to uniform admission and reporting procedures for institutions of higher education,” encompasses two main sections that detail the two plans agreed upon by the post-Hopwood task force. The first section and focal point of the law stipulates that all institutions of higher education in Texas shall admit any applicant who, in one of the two school years preceding the year for which he or she is applying for admission, graduated with a grade point average in the top ten percent of his or her high school graduating class. An applicant must still submit all application materials and take any required standardized tests by the application deadline, but class rank trumps all other considerations for admission.

After admitting all applicants who qualify for automatic admissions (as stipulated by the Ten Percent Plan or through any expanded automatic admissions plan that an institution may choose to adopt), institutions of higher education are further encouraged to admit the remainder of their entering freshmen based on eighteen socioeconomic indicators laid out by HB 588. These include such factors as:

... the applicant’s household income, the applicant’s parents’ level of education;
whether the applicant would be the first generation of the applicant’s family to attend or graduate from an institution of higher education; whether the applicant has bilingual proficiency; the financial status of the applicant’s schools district; the applicant’s region of residence; whether the applicant is a resident of a rural, urban, central city or suburban area in the state; whether the applicant attended any school while the school was under a court-ordered desegregation plan; any other consideration the institution considers necessary to accomplish the institution’s stated mission (Texas HB 588).

Though institutions are not necessarily required to follow any or all of the suggestions proposed by the legislature, under this section they are required to publish a description of admissions decision factors. A final provision of note in HB 588 also specifies that each institution shall provide an annual report to the Texas Higher Education Coordinating Board describing a demographic breakdown of each class of students admitted under the previous sections.

**Proposed Modifications**

Since its enactment, the Ten Percent Plan has had its share of proponents and critics. Recently, however, as the number of “ten-percenters” has continued to climb at Texas’ flagship institutions, prominent leaders in the legislature and in higher education have begun advancing proposed modifications to the plan in the media. Bruce Walker, admissions director at UT, for example, has expressed concern that entering freshmen at his institution are predetermined every year by the Ten Percent Plan. The percentage of automatic admissions has risen from 41% the first year the formula was used to 71% in 2006, causing Walker to speculate, “…do you really want to admit your whole class on a single criteria?” (Berger 2006). For this reason, William Powers, Jr., president at UT Austin, supports modifying the plan such that no more than half of an entering freshman class can be determined by class rank, which might afford admissions officials more liberty to shape each class. A bill to this effect has been introduced in the legislature, though it faces opposition from Senator Royce West, chairman of the Senate’s higher education subcommittee who has twice before blocked efforts to modify the Ten Percent formula (Berger 2006).

West expressed that he would consider a temporary reprieve of the Ten Percent plan to see which institutions are actually enrolling a diverse student body (Powers 2006). He remains a staunch supporter of the program itself, however, and has said that the 71% of freshmen admitted at UT under the plan is “not that big of a number” in the context of the state’s growing population (Powers 2006). Lieutenant Governor David Dewhurst has also recently supported adjusting the plan in light of steady tuition increases at flagship institutions (Robison 2007). Other modifications have been suggested in the legislature including adding specific high school course requirements in core subjects beyond minimum graduation criteria, as California's and Florida's percent plans specify (Horn, C. L. & Flores, S. M. 2003). Whether or not actual changes will be implemented is unclear.

**Data - Official Reports**

Though the Texas Higher Education Coordinating Board was an important actor in the law's development, its role has since diminished. Although the Texas Education Agency procures a variety of data on high school students, outside investigators typically apply this information to the Ten Percent Plan. Thus, much of the actual official reporting comes from the universities themselves.
On its website, the Office of Admissions at the University of Texas annually releases an update on the demographics and performance of top ten percent students who matriculate at its campus. The data is not accompanied by analysis or discussion, but the institution tracks changes for its own purposes and to allow such knowledge to be accessible by the public. The most recent report, tracking data through 2006, situates enrollment data into tables according to year, ethnicity, top ten percent status, Texas residency, and standardized test scores. These data suggest rising levels of minority enrollment across categories. Performance is also tracked according to the previous categories. These data are utilized by many of the researchers and studies detailed in the following sections.

**Other Researchers’ Findings**

Academic researchers around the country continue to analyze data from such official sources to determine the efficacy and consequences of Texas’ unique program. Lisa Dickson (2006), for example, analyzed data from the Texas Education Agency (TEA) on the demographics of students taking college admissions tests such as the ACT or SAT. She documents the decline in minority students’ test-taking following both the Hopwood ruling and the implementation of the Ten Percent Plan, but she sees a jump after 1999, which she attributes to the complementary financial aid programs implemented at the flagship colleges to attract low-income students admitted under the Ten Percent Plan (discussed further in section IV B). Further studies using official data include those by Bucks (2003) and Thompson and Tobias (2000).

Research centers have also begun studying Texas’ higher education dilemma on their own. One of the largest and most published of these is the Texas Higher Education Opportunity Project at Princeton University. Though they also make extensive use of official data, scholars here have collected their own longitudinal data based on two cohorts of students—seniors and sophomores at Texas public high schools in 2002—and analyzed their attitudes, choices, and outcomes over time. Much of this research will be discussed later in this report, but one important piece entitled “Closing the gap? Admissions and enrollments at the Texas public flagships before and after affirmative action” by Tienda et al. (2003) provides an informative summary of their work. This report details many of the trends discussed both above and below, including the drop in minority representation in Texas higher education following Hopwood, the regaining of some of this diversity following the implementation of the Ten Percent Plan, differences between ten-percent students and non-ten-percent students (both White and minority), and the importance of financial support programs.

**Proponents - “Race-neutrality” of the law**

Everyone from the media to academics and from families to lawmakers has been watching the development and outcomes of the Texas Ten Percent Plan. Much of this attention has focused on the apparent “race-neutrality” of the law and its viability as an alternative to race-conscious affirmative action programs. The plan is in a unique position to alter not only how access to higher education is determined, but how officials and the general public in the U.S. think about the consideration of race in a variety of contexts.

Since its inception, many have remained optimistic about the plan. Harvard Law Professor Lani Guinier (2003), for example, remarks that the architects of Ten Percent Law “fundamentally altered ideas about merit and access.” The simplicity and predictability of the ten percent formula have
certainly served to make the admissions process more transparent. Affirmative action programs
often come across to the public either as systems of quotas undeservedly rationing out scarce spots
or as impenetrable mixtures of various factors that arbitrarily determine admissions decisions. The
road to higher education in Texas has become highly visible without tipping off the flashpoint of race
in America since the Ten Percent formula provides an attainable, across-the-board target for all
students (Cavanagh, 2003).

Of course, Guinier also notes that while the plan purports to be race-neutral, it is not, in fact,
“color-blind.” That is, it does consciously aim to produce racial outcomes. Some opponents have
found a sticking point in this, claiming that the fact that the Ten Percent Plan purports to act like
affirmative action thus constitutes a racial program in and of itself (see Regents of the University of
Michigan 2003). Despite such claims, however, the constitutionality of the law was never challenged,
and the United States Supreme Court ruling in Grutter v. Bollinger et al., has since re-established
affirmative action in higher education.

Geographic and Racial Diversity

Despite the supposed “race-neutrality” of the Ten Percent Plan, its development came about largely
as an effort to counteract the Hopwood ruling’s banning of affirmative action. Its chief purpose was
to restore and augment (if possible) the racial diversity present at Texas’ flagship institutions prior to
Hopwood. On this front, many proponents claim it has been successful. Lani Guinier (2003) praises
the Ten Percent Plan for not only for its success in bringing racial diversity back to higher education
in Texas, but also in bringing geographic and class diversity. Geography in Texas often serves as a
marker for both race and class, and prior to the plan—including under affirmative action—students
from a few high schools effectively dominated the flagship campuses. Data from UT, for example,
confirms that the number of high schools represented at its flagship campus rose from 616 to 853
between 1996 and 2006 (Office of Admissions, The University of Texas at Austin 1996, Office of
Admission, The University of Texas at Austin 2006).

These outcomes, however, were not solely the result of the Ten Percent Plan per se. Several
researchers have pointed out that the Plan had little effect the first year after its adoption. It was not
until the following years, when scholarship programs were put in place at both UT and A&M to
provide financial assistance for “ten-percenters” from low-income school districts and families that
racial diversity began inching up once again (see Bucks 2003, Dickson 2006). Many poor high schools
students, despite guaranteed admission to higher education, simply could not afford to attend on
their own. Though these revised aid programs could not explicitly consider race, they “not only
applied disproportionately to minorities but also better targeted low-income students than
pre-Hopwood minority scholarships, which primarily benefited middle-class minority students”
(Bucks 2003). The implementation of these scholarship programs certainly expanded, if not created,
those real diversity outcomes touted by proponents of the Ten Percent Plan, bringing students to
flagship campuses that had never been a part of classes before (Hanson & Burt 1998).

Critics - Targeting the Right Students

Perhaps the most important question in investigating whether Texas’ Top Ten Percent Plan works is
does it target the right students? It was devised in large part as a reaction to the banning of
affirmative action as a consideration in higher education, but is it actually reaching those students
who were shut-out of flagship institutions by the Hopwood ruling? Who benefits from the plan and what are its unintended consequences? The answers to these questions often seem like opposite sides of the same coin.

For example, research shows that prior to 1997 (and the Hopwood ruling), high school students in Texas in the top 10% of their classes enjoyed near-certain chances of admission to the flagship schools at UT and A&M (Bucks 2003). Thus, the Ten Percent Plan may only serve to benefit those students who do not need the help. At the same time, however, university officials at UT claim that the plan puts a strain on the university’s ability to shape its classes, leaving less traditional students such as artists or writers outside the system (Berger 2006). Both the media and researchers note that qualified minority students not in the top 10% of their classes are also alienated without affirmative action, yet reports show higher levels of minority representation than before Hopwood. If applicants in the top ten percent were almost always accepted before the plan was created, why are they now crowding out other students? And if qualified minorities are being crowded out, how are minority percentages increasing at flagship institutions?

Part of the solution to this paradox lies in a shift in advertising and assistance for higher education in Texas. Because of the plan’s simple and straightforward formula, one outcome of its adoption was raising awareness in high schools around Texas that higher education was accessible. UT’s enrollment data from 1996 through 2006, for example, show that admissions rates among top ten percent students climbed across ethnicities in the years following Hopwood and the implementation of the plan (Office of Admissions, The University of Texas at Austin 2006a). Students in the top decile simply started applying to flagship institutions at higher rates once they were guaranteed admission. They may have been admitted previously, but the plan made options available and manageable to students who may have never considered them in the past. The plan, combined with scholarship opportunities that grant access to Whites from poor and rural areas, made “ten-percenters” across the state realize the accessibility of higher education.

Not all the figures are rosy, however. Part of the intention of the Ten Percent Plan was to increase racial diversity after the banning of affirmative action. Many officials and scholars have touted the plan’s success in this area. Nevertheless, Texas is a major immigrant-receiving state, and it has already been declared a “majority-minority” state by the US Census Bureau News (2005), as the population of non-Hispanic Whites has fallen below 50 percent. The crux of the matter is, even as diversity in Texas’ higher education institutions has returned to or slightly exceeded levels that existed pre-Hopwood, percentages of minority high school graduates have skyrocketed.

For example, Tienda et al. (2003) report that the percentage of the high school graduates who are Hispanic/Latino rose from 26.0% in 1990 to 32.1% in 2000, and African American graduates rose from 12.2% to 12.9%. The percentage of White high school graduates, on the other hand, fell from 54.8% to 51.5% during the same time period, though their representation on college campuses continued to grow. Since then, these trends have only continued. Overall college enrollments in Texas rose 27% between 1994 and 2004, but even so, the number of high school graduates eligible for college enrollment rose even more—50% during the same time period (Tienda, 2006). Although raw numbers of minority students appear equal at UT and A&M pre-Hopwood and post-Ten Percent Plan, percentages continue to fall, especially when measured against the rising number of minority students in Texas (Bucks, 2003).
**“Brain Drain” of non-10% Students**

Another criticism that has found popularity in the media and with certain officials is the fear of a “brain drain” of non-top ten-percent high school students. Many parents and students coming from prestigious school districts have complained in various media outlets that the top twenty or thirty percent of students from their districts deserve spots at Texas’ flagship institutions of higher education, such as UT or A&M. They say that many students “play the game” by taking easier classes or switching to less demanding schools to safeguard their GPA’s being in the top ten-percent of their classes, while students who challenge themselves and continue to prove themselves in other measures such as standardized test scores are crowded out of the elite institutions by the huge influx of “ten-percenters.”

Governor Rick Perry himself has expressed concern that too many qualified students are leaving the state to go to other schools that still have room to consider factors other than strictly high school class rank (Glater 2004). Two researchers at the Texas Higher Education Opportunity Project at Princeton University examined this phenomenon in a recent study titled “Flagships, Feeders, and the Texas Top 10% Law: A Test of the 'Brain Drain' Hypothesis” (Tienda and Niu 2006b). The authors examine ranked college preferences and eventual enrollment decisions of Texas public high school students using representative survey data of high school seniors from spring 2002 paired with re-interviews of a random sub-sample of the cohort in spring 2003. The authors investigated the “brain drain” hypothesis by focusing their analysis chiefly on second decile students who attended “feeder” high schools (affluent schools with historically large numbers of students attending Texas flagship institutions).

Findings concerning these second decile students, those supposedly at risk of being crowded out of the flagships due to the Top Ten Percent Plan, showed that those from feeder high schools continue to both prefer and actually matriculate into Texas flagship institutions at higher rates than their non-feeder counterparts. Moreover, second decile feeder school students were equally likely as top decile feeder school students to prefer or enroll at non-Texas institutions, and actually less likely to do so than all top decile students in general. The authors also note that second decile students from feeder high schools who select UT or A&M as their preferred choice actually enroll at a rate of 94%, demonstrating continued preference despite the ten percent formula. The authors can only conclude that despite “claims based on anecdotes, empirical evidence does not support the ‘brain drain’ hypothesis” (Tienda and Niu, 2006b).

**Promoting Segregation in High Schools**

The same researchers from the Texas Higher Education Opportunity Project at Princeton University also present an empirically and theoretically based critique of the Ten Percent Plan. In “Capitalizing on Segregation, Pretending Neutrality: College Admissions and the Texas Top 10% Law,” Tienda and Niu (2006a) argue that any racial diversity that has resulted in Texas’ higher education system from the Ten Percent Plan has come about largely due to the high level of racial segregation among Texas’ high schools, and continued reliance on the plan for diversity outcomes in fact encourages such segregation. These arguments led the authors to hypothesize that the Ten Percent Plan counteracts the goals of school integration by disadvantaging minority students who attend integrated schools while privileging those who attend “majority minority” schools. The authors conduct their investigations using data from the Texas Education Agency on high school segregation, which show
that high levels of segregation occur in Texas schools both within counties and across counties. They couple this with further data from the Texas Higher Education Opportunity Project that examine high school minority composition and class rank. Findings from these data corroborate the authors’ hypotheses:

“...black and Hispanic students who attend integrated schools are less likely than White and Asian students at these schools to qualify for the admissions guarantee... black and Hispanic top decile students who enrolled at flagships largely hail from high schools where minorities predominate” (Tienda and Niu, 2006a).

These analyses remain unaltered even when family socioeconomic background is controlled for. The authors also note that White students in the top decile are more likely to actually enroll at a flagship institution than minority top decile students. Though the architects of the Top Ten Percent Plan certainly did not intend to undermine integration, they “capitaliz[ed] on segregation” and the contours of race and class to achieve their results, perhaps mitigating any advantages.

The Regents of the University of Michigan, in a press release entitled “Reasons why ‘percent plans’ won’t work for college admissions nationwide” (2003), list the reliance on high school segregation to produce racial diversity in higher education as one of the prime reasons plans like Texas’ Ten Percent Plan will not provide viable alternatives to affirmative action. First of all, not all areas of the country are as racially segregated as Texas. Since the diversity achieved through the Ten Percent Plan relies to some degree on segregation, racial outcomes would be difficult, if not impossible, to achieve via such plans elsewhere. Moreover, with school integration receding to pre-Civil Rights era levels, we risk cutting off the educational pipeline for many minorities before they even reach high school.

**Other Critiques**

A variety of other critiques has also been put forth against the Ten Percent Plan, though not all have as yet received thorough investigations. One such criticism that emerged soon after the plan’s implementation was that it would actually have no effect on contexts outside of undergraduate admissions, such as at the UT Law School where the Hopwood case was initially filed (see Forbath & Torres 1997, Ratcliffe 1997a). It is unclear, however, what exactly, if anything, institutions did to compensate for the banning of affirmative action in graduate schools. Undergraduates, due to their vastly larger numbers, were undoubtedly the focus of the various officials and task forces who worked to counteract the Hopwood ruling, but little data seems to exist on other outcomes. With the Grutter v. Bollinger et al ruling by the Supreme court, the use of race or ethnicity as part of a set of admissions factors was established as constitutional, and the UT Law School Admissions Bulletin (2007) confirms that they have resumed this practice.

Plans like the Ten Percent Plan are also restricted in that they only work for universities that admit primarily from a statewide population (Regents of the University of Michigan 2003). Many public and private colleges (especially those considered especially prestigious) in other areas draw applicants from across the country. Admitting the top 10% of high school seniors in their home states would have little effect on diversity at these institutions, and could in fact serve to reduce the chances of admittance for out-of-state minorities.

Another popular criticism, based on the “mismatch hypothesis,” is that when students from
low-performing high schools are automatically admitted to elite universities, they are unprepared for the rigor and are thus unable to succeed academically once they matriculate (Ratcliffe, 1997b). Nevertheless, Marta Tienda (2006) at the Texas Higher Education Opportunity Project at Princeton University demonstrates that students admitted as part of the ten-percent rule are actually outperforming non-ten-percent students—even when those counterparts have better test scores (see also Guinier, 2003 and Office of Admissions, The University of Texas at Austin 2006a). The Texas Higher Education Opportunity Project has moreover studied this “mismatch hypothesis” as it relates to affirmative action programs and minorities nationally, using a variety of longitudinal data sets on American high school students, and found it “empirically groundless” (Alon and Tienda, 2005). A study focusing specifically on Texas and the ten-percent cohorts may help clear up any confusion, but data seems to suggest that at least this particular criticism remains unsupported.

The Ten Percent Plan falls short in that it is arbitrary in its consideration of a single criteria. Although performance in high school has been demonstrated to be a useful predictor of college performance, it remains a single factor that cannot adequately capture all applicants’ abilities. Its simplicity is undoubtedly its strength, but the plan has also begun to falter under the weight of more and more top ten-percent students applying for a limited number of seats at selective institutions.

Finally, Lani Guinier (2003) provides a truly theoretical and important critique of the plan: “It is backward-looking because it chooses students based on what they did in the past.” In “Admissions rituals as political acts: Guardians at the gates of our democratic ideals,” Guinier details the importance of rethinking merit and access to higher education, and she suggests that the Ten Percent Plan has changed the landscape to some degree but has not brought about a revolution. Connecting admissions criteria to the democratic missions of higher education requires looking forward to what students can and will accomplish in the future, and the Ten Percent Plan is simply unqualified to effect such wide-reaching changes.
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