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Diversity Plan Shaped in Texas Is Under Attack

By JONATHAN D. GLATER

AUSTIN, Tex., June 8 — Texas lawmakers thought they had found the ideal alternative to race-based affirmative action.

Seven years ago, after a federal court outlawed the use of race in the admissions policies of the state's public universities, the Legislature came up with an answer: It passed a law guaranteeing admission to the top 10 percent of the graduating class from any public or private high school. After a few years of hard work, diversity was restored and other states, including California and Florida, adopted similar approaches. The law looked like a success.

But the 10 percent rule, which seemed to skirt the tricky issue of race so deftly, is coming under increasing attack these days as many wealthy parents complain that their children are not getting a fair shake. A consensus seems to be building that some change is necessary.

Parents whose children have been denied admission to the University of Texas at Austin, the crown jewel of Texas higher education, argue that some high schools are better than others, and that managing to stay in the top 25 percent at a demanding school should mean more than landing in the top 10 percent at a less rigorous one. The dispute shows how hard it is to come up with a system for doling out precious but scarce spots in elite universities without angering someone.

The president of the University of Texas at Austin, Dr. Larry R. Faulkner, says the law — which has pulled students from rural areas and from battered urban schools onto his campus — may need adjustment. The rule, he says, takes away discretion from the university's admissions office, making it harder to shape a class and ensure that certain kinds of students, like musicians, are included.

He has endorsed the idea of capping the number of students who may be admitted under the rule at, perhaps, half of all first-year students.

Gov. Rick Perry has also expressed concern, saying the rule was prompting qualified students to leave the state. "I really don't see how it has worked the way people projected it would work," Governor Perry said this month. "And I think, across the board, Texans see it as a problem."

Modifying the rule will be the subject of a State Senate committee hearing this month; the soonest any change is likely to be made is when the full Legislature meets early next year.

What Texas decides may hold lessons for other states. The approach embodied by the law, which was passed while President Bush was governor, has been championed as a model by Rod Paige, the United States secretary of education.

In many ways, the 10 percent rule has transformed the student population on the campus here. For one thing, the number of schools that send their graduates to the University of Texas has risen by a third, from just over 600 to more than 800.

And, according to the admissions office, the new freshman class will be, for the first time, more diverse than classes were before the United States Court of Appeals for the Fifth Circuit struck down affirmative action in higher education in 1996.

Of the 6,341 students who have sent in deposits so far, the university classifies 3,536 as Anglo, 298 as African-American, 1,146 as Hispanic and 1,128 as Asian. (In addition, 23 are classified as Native American and 210 as "other.")

Opinions about the 10 percent rule do not fall neatly into predictable categories. While affirmative action - historically used only at the state's two flagship schools, the University of Texas at Austin and Texas A&M University - drew harsh attacks from political conservatives, the 10 percent rule has critics and supporters from different places on the ideological spectrum.

Any change in the rule raises the touchy subject of class, because those demanding change tend to be concerned about students at the state's elite high schools in wealthy areas, while defenders of the rule say they are worried about students from poorer rural and urban neighborhoods.

"It's a big-time social class story," said Marta Tienda, a Princeton University professor of sociology and public affairs who has studied the effects of the rule. "School type is the proxy for social class."

Guidance counselors and administrators at rural schools question the motives behind changing the rule.

"The State of Texas has done a great thing by offering this opportunity to get our most gifted students into a challenging educational setting," said Cherri S. Franklin, principal of the public junior and senior high school in Marfa. "And the rich people don't want them there." She emphasized that she was speaking for herself and not the school system.

The school in Marfa, about 200 miles southeast of El Paso, is small, graduating about 30 students a year, so only a few become eligible under the rule, Ms. Franklin said. But without the rule, she said, that opportunity might vanish.

Critics of the rule say that students from poor high schools without the resources of wealthier institutions are not ready for the work at an elite public university, and that too many graduates of high-powered high schools are leaving the state for college when they do not get into the University of Texas.

"Those kids are not prepared," said Douglas S. Craig, a lawyer in Houston whose son, Charles, was not accepted at the university. Charles Craig went to the University of Colorado at Boulder instead, Mr. Craig said, adding that getting into the top 10 percent at his son's selective private high school was very difficult. "His class was two-thirds National Merit scholars and semifinalists. Their scores are all very, very high."

But Bruce Walker, vice provost and director of admissions at the University of Texas, said data collected by the university showed that students admitted under the 10 percent rule consistently get better grades than other students. Critics question that data, however, and argue that SAT scores are a better measure of students' abilities. The SAT scores of students in the top 10 percent there have fallen slightly over the last several years, according to the admissions office.

Bianca Williams, 22, a graduating senior, said that some of her friends had struggled initially in college-level classes, but that they all adjusted and have done well.

"I felt like I was prepared," said Ms. Williams, who described her Houston high school, Klein Forest High, as economically and racially mixed. "Just because you're from an inner-city school doesn't mean you're not equipped to handle" the University of Texas, she added.

Russell Lloyd, an incoming first-year student from an elite public high school in the Austin area, said the admissions process should take into account a high school's strengths and weaknesses. "There ought to be a way to rework it so you can admit students from these small schools" in poorer areas, he said, without penalizing students from elite public and private schools.

Settling on an alternative to the 10 percent rule could be difficult. California, which has had a version of an automatic admissions system for years, may offer a useful example.

For years, California guaranteed that those in the top 12.5 percent of graduating students statewide would be admitted to the University of California system, and since 2001, the state has extended that guarantee to students in the top 4 percent of their high school class. But students still must be admitted by a specific school, like Berkeley, while students in the top 10 percent in Texas can choose the school they attend.

Even so, because of a lack of money, California for the first time had to turn away more than 5,000 students who would have started next fall. Those students will be able to transfer into the system after two years at a community college.

Neither in California nor in Florida have the rules generated the kind of opposition that has developed here.

Todd Staples, a Texas state senator who has questioned the 10 percent rule, said he was not sure what kind of change would be appropriate.

"My senatorial district is sprawling across a part of 16 counties, from rural to suburban fast growth," Mr. Staples, a Republican, said. "So I have a mixture of high schools that are impacted differently on this issue. My goal is to have a win-win policy."

As a result of Supreme Court decisions last year, the University of Texas plans to resume using race as a factor in admissions decisions, so it would have a way to maintain diversity independent of the 10 percent rule.

At Texas A&M, which does not plan to use race as a criterion in undergraduate admissions, the president, Robert Gates, said he would support a cap on the 10 percent rule. More than half of his incoming class is selected automatically under the rule, but another quarter gets in under another automatic program for students who score at least 1300 out of a possible 1600 on the SAT and who are in the top half of their class.

"We only get to choose about a quarter of our freshman class based on looking at the whole person," Mr. Gates said. Outreach efforts over the past year have helped the school draw more minority students than in prior years, he added.

State Senator Royce West, a Democrat from Dallas, predicted that reaching consensus on changes to the 10 percent rule would be difficult. Senator West, who heads the committee that will hold the hearing on the rule, conducted an end-of-session filibuster to block a cap on it.

"I am not going to stand here and let this rule be abolished when it has not served its purpose yet," he said. He said any changes would have to continue some form of preference for students at schools that have historically been underrepresented.

Mr. Walker of the University of Texas said, "The only thing that would satisfy everyone is an open-door policy and an unlimited number of spaces."