
Actuating Equity: Historical and Contemporary Analyses of African American Access to Selective Higher Education from Sweatt to the Top 10 Percent Law

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The University of Texas at Austin (UT-Austin) opened its doors on September 15, 1883, under the premise that admission be equally accessible regardless of gender or religion (University of Texas 1975). Yet, the incipient notion of equality at UT-Austin was limited as race could preclude entry. Jim Crow stipulated White students attended White schools and Black students attended Black schools—whether they be K-12 or institutions of higher education (State Department of Education 1935). Plessy v. Ferguson (1896) had legalized segregation as long as there were “separate but equal” institutions and facilities for Blacks. Since there were separate Black universities in Texas such as Prairie View State Normal and Industrial College (later called Prairie View A&M) and Texas State University for Negroes (later called Texas Southern University), racial segregation at UT-Austin was legal (Shabazz 2004).

Before the 1950s, Blacks in Texas could not legally attend selective traditionally White institutions of higher education, including the University of Texas at Austin (UT-Austin), because of the “separate but equal” doctrine (State Department of Education 1935). This changed when the U.S. Supreme Court desegregated graduate and professional schools in the landmark court case of Sweatt v. Painter (1950). Sweatt also set an important precedent for Brown v. Board of Education (1954), which effectively overturned Plessy v. Ferguson (1896) and the “separate but equal” doctrine in all public schools. Although these cases ended de jure segregation for Black students, access to higher education in Texas, and elsewhere, remained a challenge due to the social and cultural contextual barriers that resulted from long-standing systemic and legal discrimination.

The Lone Star State has struggled to increase racial and ethnic diversity within its traditionally White flagship institutions since Sweatt. The University of Texas at Austin attempted to address the persisting underrepresentation of students of color on campus through several programs, including minority recruitment in the 1960s, diversity recruitment plans negotiated by the U.S. Justice Department in the late 1970s, and the implementation of affirmative action in the 1980s. However, all of these proved to be false starts, and then, in 1996, Hopwood v. Texas brought such targeted efforts to a halt. The U.S. Court of Appeals for the 5th Circuit decided in Hopwood that admissions practices considering race at the UT-Austin School of Law were unconstitutional. In 1997, then Texas Attorney General Dan Morales issued an opinion on the Hopwood case and applied its ruling to all areas in higher education including admissions, financial aid, and scholarships.

In response to the Texas attorney general’s interpretation of Hopwood, Texas House Bill 588 was filed in 1997 by Irma Rangel (D-Kingsville) and passed during the 75th Legislature. The bill, created by a coalition of lawmakers, faculty members, and community activists, called for the automatic admission to any public university in Texas of any student that graduated in the top 10 percent of his or her class. The original intent was to promote geographic, regional, and racial diversity by capitalizing on residential and secondary school segregation in the state. In theory, HB 588 would be a race-neutral admissions practice that would provide greater access to selective higher education to all qualified students in Texas.

However, the question remains as to whether the Top Ten Percent Plan (TTPP) created greater diversity relative to past efforts. As a result, the purpose of this article is to understand the historical and contemporary access of Black students to selective higher education in Texas. In this analysis we use the state’s flagship institution: the University of Texas at Austin.

We begin with a literature review that examines the evolution of selective
admissions, legislative enactments, and judicial decisions from Jim Crow to the TTPP. We follow this with the first estimate of historical Black enrollment at UT-Austin. Using this unique data, we conduct a representation analysis of the proportion of Blacks enrolled at UT-Austin relative to statewide population estimates at seven points in time over the past seventy years. The second part of our analysis examines whether the TTPP has increased Black enrollment at UT-Austin. We then analyze cross-sectional data to understand Black TTPP students’ college choice, persistence, and graduation rates. We conclude with a discussion factoring in contextual and historical events that have thwarted efforts to increase Black participation at UT-Austin.

Considering the continuing challenge of the underrepresentation of Blacks at selective postsecondary institutions in the United States and a shift away from thinking of racial grouping for pursuing claims against the state, a historical analysis aligned with contemporary data to contextualize key events and policies is important to illuminate the continuing struggle for equity in admissions for Blacks. As a result, this article seeks to address the following questions: Has the underrepresentation of Blacks in selective higher education in Texas improved relative to their statewide population since the civil rights era? Have Black applications and enrollment increased in selective higher education in the midst of the TTPP? Have TTPP Black students chosen to enroll in selective institutions of higher education? Are there differences in TTPP Black persistence and graduation by institutional selectivity?

**Historical and Contemporary Research**

**Access, Opportunity, and Adjudication: 1952-1969**

The literature review begins in the 1950s and details the role of legal enactments in the context of the desegregation era and the impact of those enactments on Texas's K-12 public schools and the UT-Austin. Specifically, we consider how pervasive and hostile attitudes toward desegregation influenced the speed with which students of color had access to all levels of education in Texas. We then transition to the impact of the civil rights movement on access and opportunity.

In 1946, Heman Marion Sweatt, a Black veteran, applied for, and was denied admission to, the UT-Austin School of Law. Sweatt filed suit against UT-Austin in Texas's 126th District Court alleging that this denial was an infringement of his rights under the Fourteenth Amendment of the U.S. Constitution. At the time, there were no separate Black law schools in Texas (Lavergne 2010). After six months, Judge Roy C. Archer of the 126th District Court decided that if the UT-Austin Board of Regents created a separate first-class university law school then the UT-Austin School of Law would not be required to accept Blacks (Duren and Iscoe 1979, 3). Sweatt appealed to the U.S. 3rd Court of Appeals, which sent the case back to retrial.

The Sweatt case is dissimilar from the Missouri ex rel. Gaines v. Canada (1938), University v. Murray (1936), Sipuel v. Board of Regents (1948), and McLaurin v. Oklahoma State Regents (1950) Southern higher education desegregation cases as the state of Texas sought to create a “separate but equal” law school to head off integration at UT-Austin. During the appeal, the Texas Legislature approved the establishment of the Texas State University for Negroes (TSUN, later called Texas Southern University or TSU) in Houston. This new university was created to offer general and professional programs equivalent to those offered at UT-Austin for Blacks. On March 10, 1947, the school opened, but Sweatt did not attend due to TSUN’s inferior quality and the NAACP’s desire to integrate White institutions (Lavergne 2010). After the Texas Supreme Court refused Sweatt’s motion for a rehearing of his case, the NAACP filed the case at the U.S. Supreme Court. The nation’s highest court ruled on June 5, 1950, that the educational opportunity for Black and White law students was not “substantially” equal to meet the equal protection clause under the Fourteenth Amendment, thus, the UT-Austin School of Law was required to admit Sweatt.

Despite Sweatt, the official end of the Jim Crow era arrived after the U.S.
Supreme Court decision of Brown v. Board of Education (1954), which held that the Plessy v. Ferguson doctrine of "separate but equal" was unconstitutional. Following Brown v. Board of Education (1955), the second Brown decision, the U.S. Supreme Court gave the responsibility for integrating public schools to local officials under the scrutiny of the federal courts; in addition, these courts needed to ensure that local officials were making a "prompt and reasonable start" with "all deliberate speed" (Ogletree 2004). However, this notion of "all deliberate speed" became "all deliberate slowness" in its implementation in Texas. Then Governor Allan Shivers saw the Brown decision as a federal invasion into states’ rights on the doctrine of "separate but equal" and, as such, did not believe that the schools in Texas needed to change to reflect the Brown decision (Lavergne 2010).

Then Attorney General John Ben Shepperd, reacting to a Texas high court decision to permit the use of state funds for integrated schools, stated that though the case settled the law for the state, the time frame for integration would be a community-by-community decision (Wilson and Segall 2001). This “slowness” permeated into postsecondary institutions in Texas as well; although there was to be eventual integration at all levels of the schooling system in Texas, the speed of integration was to be determined by educational institutions and not the federal government (i.e., the U.S. Supreme Court).

In September 1954, four months after Brown, it was UT-Austin’s policy, according to then President Logan Wilson, to accept Black graduate students only when the particular programs were not offered in the state’s Black institutions (Duren and Iscoe 1979). In fact, one year after the Sweatt decision, Texas Southern University (TSU), the new name for the Texas State University for Negroes, in concert with UT-Austin, was to provide bachelor’s and master’s degree programs in arts, sciences, education, and business and develop professional degree programs in pharmacy and law for Blacks. UT-Austin would not be in competition for Black graduate students at TSU nor Prairie View A&M (originally called Prairie View State Normal and Industrial College). In other words, UT-Austin’s School of Law would accept Black students due to Sweatt, but it would not admit Black students into other graduate programs that either TSU or Prairie View A&M offered (Shabazz 2004).

Black undergraduates were also excluded from undergraduate admissions at UT-Austin since they could find their majors in other postsecondary institutions (Duren and Iscoe 1979). This changed in July 1955 when the university’s Board of Regents decided that the institution would completely integrate by September 1956. Again, UT-Austin became a progenitor of access as the first higher education institution in the South to decide to allow Blacks as undergraduate students. The regents’ decision came only a few months before Autherine Juanita Lucy enrolled at the University of Alabama as well as a few months before the U.S. Supreme Court voided portions of Texas’s Constitution concerning segregation (Clark 1993). Integration had become inevitable.

There were a variety of structural factors (i.e., legal environment, aptitude testing, segregation) working in concert to limit the enrollment of Blacks at UT-Austin. As a result, the integration of public education institutions after Sweatt and later Brown was a slow process. The U.S. Supreme Court spurred integration but did not achieve full implementation as Texas public school districts and postsecondary institutions pursued integration on an incremental basis. For example, in Austin, Texas, by the spring of 1964, only 14 percent of Black students were attending White schools in the Austin Independent School District (Wilson and Segall 2001).

In response to civil rights legislation and legal pressures to enact programs to increase the enrollment of historically underrepresented minority students, UT-Austin began two admissions programs: the Provisional Admissions Program (PAP) and the Program for Education Opportunity (PEO) (Duren and Iscoe 1979; Goldstone 2006). First, in 1962, the Board of Regents approved a plan to create PAP. This program was designed to admit students who had not met admissions requirements, including
underrepresented minorities. The program allowed participants to enroll during the summer session to demonstrate their ability to perform well in a university setting. If the student could show that he or she could do satisfactory work in specific courses the student could then qualify for admission to the university in the fall (Duren and Iscoe 1979). Critics of PAP pointed out that the program appeared to be aimed toward middle-class students rather than disadvantaged minorities, as students accepted into the program typically did not receive additional financial aid assistance from the university. In addition, due to the intensity of taking twelve credit hours in the summer, the university administrators did not encourage PAP students to work. Therefore, low-income students did not have the financial resources to pay for summer classes. As a result, the reach of the program was limited for Black and Latina/o students (Goldstone 2006).

Noting the failure of PAP, the university sought to create more access for Black and Latina/o students by creating the Program for Educational Opportunity during the 1968-1969 academic year. PEO’s goals were to help “educationally, culturally, and financially disadvantaged students” who, based on recommendations and interviews, could be successful at the postsecondary level but were not able to demonstrate this aptitude on entrance examinations (Goldstone 2006, 147). Moreover, this program sought to compensate for inadequately funded and poor-quality K-12 schooling that many Black and Mexican American students were receiving in Texas that had not adequately prepared them for success on standardized tests such as the ACT and SAT (Goldstone 2006).

During its first year, 1968-1969, there were twelve Black and thirteen Latina/o students who attended UT-Austin under this program. Twelve of these students successfully returned to the university the following academic year. However, despite this limited success and a recommendation from the Faculty Council to expand the program, in May 1969, PEO was terminated by the Board of Regents. The board declared that funds appropriated by the state legislature and other local institutional monies should not be used for direct recruitment of students who would not have been admitted to the university otherwise (Goldstone 2006). Then Board of Regents Chair Frank C. Erwin stated in front of the Texas State Legislature, “We are turning down thousands of applicants from Irish, Scotch, Yugoslav . . . and other descents” because they did not meet the university’s admissions standards but “at the same time deliberately admit Afro-Americans and Mexican Americans who fail to meet these same standards” (Morrison 1969 as cited in Goldstone 2006, 148).


During the 1970s and leading into the early 1980s, UT-Austin sought to remedy the small pool of eligible Black and Latina/o applicants by allowing admissions of Latina/os and Blacks with lower test scores to graduate and undergraduate schools. Whites across the nation began to question whether their rights were being violated by these practices and sought to limit affirmative action mechanisms in the courts. Several U.S. Supreme Court cases changed how universities were able to admit and allocate resources based upon race. There are three major U.S. Supreme Court cases that had a significant impact on the use of race in the admissions process at the undergraduate and graduate levels at UT-Austin: Regents of the University of California v. Bakke (1978), Hopwood v. Texas (1996), and Grutter v. Bollinger (2003). These cases emphasized “strict scrutiny” as states were required by federal courts to show that the racial classifications in law “served a compelling and legitimate state interest” (Howard 1997, 33).

In 1973, Allan Bakke, a White male applicant, was refused admission to the University of California Davis Medical School. In Regents of the University of California v. Bakke, he claimed that the medical school had denied him equal protection under the Fourteenth Amendment because sixteen seats were reserved for economically disadvantaged minority students. The U.S. Supreme Court decided that Bakke should be allowed into the medical school but that “although race or ethnicity should not demand inclusion or exclusion, minority racial or ethnic status could constitute a ‘plus’ in an
While Bakke was under review at the U.S. Supreme Court, the U.S. Office for Civil Rights (OCR) began a civil rights review of Texas higher education in February 1978. The OCR eventually found that Texas had not eliminated vestiges of de jure segregation (Moses 2001). After thirty months of negotiations, several court orders, and discussions with two state administrations, the State of Texas agreed to develop a voluntary higher education desegregation plan (Moses 2001). A period of foot-dragging ensued, and by 1983, facing a forty-five-day ultimatum from the Adams v. Richardson court to develop a desegregation plan, then Texas Attorney General Mark White encouraged state leaders to adopt a voluntary plan of action to diversify Texas higher education to “forestall” a direct federal order to desegregate Texas colleges and universities (Hopwood v. Texas 1996). The state responded by creating the Texas Educational Opportunity Plan (TEOP), also known as the Texas Plan (Texas Higher Education Coordinating Board 1988).

In all, there were three Texas Plans: the first in 1983, the second in 1989, and a final iteration in 1994 (Scott and Kibler 1998). Each was designed to strategically address the lack of diversity at Texas’s traditionally White postsecondary institutions. Over the course of five years, the goal of the first Texas Plan was to enroll an additional 2,432 Black and 3,190 Latina/o undergraduates, 240 Blacks and 463 Latina/os in graduate programs, and 100 more Latina/os and Blacks in professional studies at traditionally White Texas public universities (Texas Higher Education Coordinating Board 1983). However, by 1986 UT-Austin and its peer universities realized that they were not meeting their goals. For instance, in the 1984-1985 academic year, at UT-Austin, there were only about 100 more Black undergraduates than in 1977-1978. For Latina/os, the increase was only thirteen students during the same time frame (Texas Higher Education Coordinating Board 1986). Gerald Wright, Texas Higher Education Coordinating Board’s Director of Equal Opportunity Planning, argued that minority students were not enrolling into postsecondary institutions because their access was “limited by a conjunction of social, financial, and political barriers” (Texas Higher Education Coordinating Board 1986, 6).

From Hopwood to 10 Percent: 1997-Present

Nearly fifty years after the landmark Sweatt case, Cheryl J. Hopwood and Stephanie C. Haynes, two White females, applied to the UT-Austin School of Law. When they were rejected, they filed a lawsuit in U.S. District Court stating that they were denied their constitutional guarantee of equal protection under the law when “less qualified” minorities were admitted. Both claimed that although they had met the school requirements for admittance, the law school had “preferential” admissions policies for Black and Latina/o applicants (Goldstone 2006). Haynes was dismissed from the suit on February 11, 1993, and ultimately, Douglas Carvell, Kenneth Elliott, and David Rogers, three White males, joined the existing lawsuit as plaintiffs alleging claims similar to those of Hopwood (Kauffman and Gonzalez 1997).

The U.S. Court of Appeals for the 5th Circuit ruled in Hopwood that any consideration of race or ethnic background by the UT-Austin Law School to achieve a diverse student body did not apply under the Fourteenth Amendment. In addition, “the use of race . . . simply cannot be a state interest compelling enough to meet the steep standard of strict scrutiny” (Hopwood 1996, 49). This ruling had major implications for all affirmative action policies at postsecondary institutions in the 5th Circuit. Then Texas Attorney General Dan Morales instructed all public Texas colleges and universities to function on a “race-neutral” basis in regard to all their procedures and policies such as recruitment, retention, financial aid, and tutoring.

In reaction to the Hopwood court decision and to encourage minority representation at UT-Austin and Texas A&M University, in 1996 the state legislature passed House Bill 588 (the Top Ten Percent Plan), which was then signed into law by Texas Governor George W. Bush. Under this statute, a Texas student who graduated in the top 10 percent of his or her class
received automatic admission to any state college or university. As with any new policy, there were arguments on both sides of the issue. Proponents of this plan argued that this law would increase the number of minority students at Texas A&M University and UT-Austin, the two public flagship campuses; opponents contended that the program would only work if secondary schools remained segregated and the state avoided dealing with this issue. Others argued that accepting all top 10 percent students would lower the quality of education at these universities since the plan needed to accept students from “weaker” schools (Goldstone 2006).

In 2003, race as a criterion amongst many in the admissions process was reaffirmed by the U.S. Supreme Court in Grutter v. Bollinger, as the court ruled constitutional the University of Michigan Law School’s “narrowly tailored” use of race in admissions since it was not prohibited by the Equal Protection Clause (Grutter v. Bollinger 2003, 320). As a result of Grutter, once top 10 percent admissions are completed, UT-Austin is able to consider race and ethnicity in the admissions process under the category of “other factors.” In theory, the combination of the TTPP and affirmative action should have increased Black enrollment relative to past efforts.

Methodology

In order to gain an understanding of how Black undergraduate enrollment at UT-Austin changed in response to the selective higher education admissions policy and civil rights history considered in this article, we conducted an analysis of UT-Austin Cactus yearbooks. We then examined contemporary data to descriptively consider recent enrollment trends in Texas higher education since the Hopwood era to understand the impact of the legislatively mandated TTPP admissions policy.

Historical Black Enrollment

Early in the research process, discussions with the UT-Austin Admissions and Registrar’s Office revealed that the university did not gather data by race until the 1970s. To facilitate the estimation of historical Black enrollment, a novel data-gathering process using the UT-Austin Cactus yearbook was utilized. The Cactus yearbook has served as the “pictorial record of change” at the UT-Austin since 1894.

To estimate Black enrollment, the researchers studied yearbook portraits. Visual assessment of photos as a research method is utilized across disciplines. John Collier Jr. and Malcolm Collier demonstrated that for many decades visual anthropologists have been concerned with “visual observations and the insights that can be gained through the use of camera records” (1999, 1). Social psychologists have utilized phenotype analysis to understand attitude and social cognition for many decades (Livingston and Brewer 2002). Notably, we believe this article is the first to use phenotype analysis to estimate and analyze the historical enrollment of Black students.

A structured research process was used to develop longitudinal data estimating Black enrollment at UT-Austin. Each page of the Cactus student section was ordered by class and contained the student name, hometown, and student photograph. To organize the data collection, we considered the portrait together with surnames and hometown, and then counts by race/ethnicity and gender were determined page by page. To check the authenticity of the work and moderate validity threats, several research team members conducted checks by independently examining photos for coding consistency. A limitation of the work is that the counting method is not infallible, but it is perhaps the best approach available to estimate historical enrollment of Blacks.

The historical admissions data-gathering process was conducted in fifteen-year increments tracking backward from Hopwood (yearbooks from 1997, 1982, 1967, 1952, 1937). The researchers also conducted an additional yearbook count beyond the five fifteen-year time frames to understand the impact of the TTPP on Black enrollment in 2001, five years after Hopwood. Of note, we concluded the yearbook counts in 2001, as there was an important change in yearbook policy (University of Texas 2001b). Typically
there were 14,000 to 15,000 pictures in the Cactus yearbooks. However, near the start of the decade, the free sittings were transferred to orientation and were no longer a midyear tradition. This change dramatically reduced the number of students choosing to take yearbook photos, which limits the reliability of yearbook-derived data in recent years.

Contemporary Black Enrollment

We used institutional data from UT-Austin’s Office of Information Management and Analysis and Office of Admissions to examine overall Black enrollment since 1996’s Hopwood. To understand the enrollment of Black TTPP students across the state, we utilized data from the Texas Higher Education Coordinating Board (THECB), the state agency responsible for planning for improvement of higher education in the state of Texas. The THECB data includes more than fifty public universities and colleges. The breadth of the data makes it possible to consider TTPP Black students’ higher education outcomes. We conduct descriptive analysis of cross-sectional TTPP Black students’ college choice, persistence, and completion.

Findings

Blacks first matriculated into graduate programs at UT-Austin in the early 1950s. Undergraduate admissions came a few years later in 1956 (Shabazz 2004). As enrollment of undergraduate Blacks was not allowed until 1956, there were no Black undergraduate students attending the university in the 1937 and 1952 counts (see Table 1).

Table 1 — Estimates of UT-Austin Black Enrollment and Underrepresentation

<table>
<thead>
<tr>
<th>Year</th>
<th>Black Male</th>
<th>Black Female</th>
<th>Black Total</th>
<th>Census Black</th>
<th>Underrepresentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1937</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>14.4%</td>
<td>14.4%</td>
</tr>
<tr>
<td>1952</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>12.7%</td>
<td>12.7%</td>
</tr>
<tr>
<td>1967</td>
<td>0.4%</td>
<td>0.4%</td>
<td>0.8%</td>
<td>12.5%</td>
<td>11.7%</td>
</tr>
<tr>
<td>1982</td>
<td>0.9%</td>
<td>1.8%</td>
<td>2.7%</td>
<td>12.0%</td>
<td>9.3%</td>
</tr>
<tr>
<td>1997</td>
<td>1.3%</td>
<td>2.1%</td>
<td>3.4%</td>
<td>11.5%</td>
<td>8.1%</td>
</tr>
<tr>
<td>2001</td>
<td>1.2%</td>
<td>2.5%</td>
<td>3.7%</td>
<td>11.5%</td>
<td>7.8%</td>
</tr>
</tbody>
</table>


In 1967, arguably near the height of the civil rights movement, Table 1 shows that less than 1 percent of the student population was Black (.4 percent each for male and female). The first UT-Austin collected admissions data by race available is for fall 1972, when there were 326 Blacks out of a student population of 39,900 or .8 percent (University of Texas 1976). Therefore, despite civil rights legislation and a friendlier legal environment, UT-Austin continued to have an extremely low enrollment of Black students. Relative to the 1970 Census, Blacks were underrepresented by about 12 percent (see Table 1).

By 1982, civil rights directives—in particular Title VI and affirmative action
enforced by the Adams court—sought to provide wider access for students of color, though societal barriers affecting prospective entrants such as inequitable K-12 education remained. Furthermore, despite the noble intentions of the belated Texas Plans and other outreach programs, UT-Austin had not met its promised goals for diversity. As shown in Table 1, a review of the 1982 Cactus revealed that 2.7 percent (.9 percent male and 1.8 percent female) of the student population at the university was Black. Notably, this was the first year in the analysis where the estimated proportion of Black females enrolled exceeded males. We estimate that Black male enrollment was half of female enrollment. Nearly fifteen years after the civil rights movement, Blacks remained underrepresented compared to their statewide population in the 1980 Census by about 9 percent.

By 1997, the backlash against affirmative action had increased to a crescendo. The Bakke decision in 1978 followed by Hopwood in 1996 spurred on the opposition. The year after Hopwood, the yearbook analysis suggests Blacks were 3.4 percent (1.3 percent male and 2.1 percent female) of the total student population at UT-Austin (see Table 1). The yearbook counts are similar to matriculation data released by UT-Austin showing Black enrollment at 3.5 percent (University of Texas 1998). As shown in Table 1, considering the 2000 Census, Blacks were about 8 percent below their statewide population.

It is interesting to note that during the first year of the implementation of the Top Ten Percent Law (1998-1999), the university data on enrollment proportions was 3.5 percent for Blacks (University of Texas 2001a). In 2001, several years after the implementation of the TTPP, the yearbook count estimates the proportion of Blacks at 3.7 percent of the student body. Since 1996, the yearbook analysis illustrates that Blacks appear to show a modest increase in enrollment at UT-Austin. However, Blacks remained vastly underrepresented relative to their statewide population (see Table 1).

**Top Ten Percent Plan**

Ten years of institutional data shows that Black and Latina/o student enrollment has increased in the midst of the Top Ten Percent Plan. In 2008, Black students made up 5.6 percent of all incoming freshman and Latina/os made up 19.9 percent, representing an increase of 2.9 and 7.3 percentage points from 1997, respectively (see Figure 1).

**Figure 1 — Percentage of First-Time Enrolled Applicants by Race at UT-Austin (Source: Office of Information Management and Analysis, final enrollment analysis for fall 2008.)**

![Figure 1](Image)
We will now turn to contemporary THECB data on enrollment in Texas public institutions of higher education to further examine TTPP Black students enrolled in all public institutions in the state of Texas.

**Table 2 — Top 10 Percent College Choice, Texas Public Universities (Freshman Entering 2000-2003)**

<table>
<thead>
<tr>
<th>Year and University Type</th>
<th>White</th>
<th>Black</th>
<th>Latina/o</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>58.0%</td>
<td>29.6%</td>
<td>40.6%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>42.0%</td>
<td>70.4%</td>
<td>59.4%</td>
</tr>
<tr>
<td>Grand Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>2000-2001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>61.6%</td>
<td>31.1%</td>
<td>41.8%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>38.4%</td>
<td>68.9%</td>
<td>58.2%</td>
</tr>
<tr>
<td>Grand Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>2001-2002</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>58.7%</td>
<td>28.6%</td>
<td>38.8%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>41.3%</td>
<td>71.4%</td>
<td>61.2%</td>
</tr>
<tr>
<td>Grand Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>2002-2003</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>60.9%</td>
<td>29.0%</td>
<td>40.5%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grand Total</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
We begin by comparing the cross-sectional college choice patterns of historically underrepresented minority students to White students in Texas (see Table 2). Across all time periods, Whites show the largest percentage of TTPP students choosing UT-Austin or Texas A&M, which are the top-tier universities represented in Table 2, over all other Texas universities. Of eligible TTPP students, about 40 percent of Latina/os students and 30 percent of Blacks choose the two flagship universities. As a result, 70 percent of eligible Black and 60 percent of eligible Latina/o students turned down the opportunity to attend the most selective institutions of higher education in Texas despite their preferential admission. This is an important issue that will require further qualitative research to understand why this disparity is occurring. What we do know is that TTPP Black public higher education enrollment increased 28 percent for midsized public institutions in Texas enrolling between 10,000 and 30,000 students and 77 percent for smaller institutions with less than 10,000 students between 2000 and 2006 (analyses not shown).

Table 3 — Top 10 Percent College One-Year Persistence, Texas Public University Selectivity (2000-2008)

<table>
<thead>
<tr>
<th>Year</th>
<th>University Type</th>
<th>White</th>
<th>Black</th>
<th>Latina/o</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>Top-Tier University</td>
<td>94.9%</td>
<td>93.3%</td>
<td>93.9%</td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.3%</td>
<td>85.8%</td>
<td>86.2%</td>
</tr>
<tr>
<td>2001-2002</td>
<td>Top-Tier University</td>
<td>95.8%</td>
<td>95.0%</td>
<td>91.9%</td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>87.9%</td>
<td>85.2%</td>
<td>84.1%</td>
</tr>
<tr>
<td></td>
<td>Top-Tier University</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>---------------------</td>
<td>-------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>2002-2003</td>
<td>95.0%</td>
<td>93.2%</td>
<td>92.0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.0%</td>
<td>84.9%</td>
<td>86.8%</td>
</tr>
<tr>
<td>2003-2004</td>
<td>94.8%</td>
<td>92.9%</td>
<td>92.1%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>87.0%</td>
<td>87.8%</td>
<td>85.8%</td>
</tr>
<tr>
<td>2004-2005</td>
<td>96.1%</td>
<td>93.8%</td>
<td>93.8%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.2%</td>
<td>83.1%</td>
<td>82.9%</td>
</tr>
<tr>
<td>2005-2006</td>
<td>95.9%</td>
<td>93.8%</td>
<td>93.0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.5%</td>
<td>82.9%</td>
<td>84.6%</td>
</tr>
<tr>
<td>2006-2007</td>
<td>95.5%</td>
<td>92.5%</td>
<td>92.6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.6%</td>
<td>80.0%</td>
<td>84.8%</td>
</tr>
<tr>
<td>2007-2008</td>
<td>95.7%</td>
<td>93.7%</td>
<td>92.4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other Texas University</td>
<td>86.5%</td>
<td>81.6%</td>
<td>83.2%</td>
</tr>
</tbody>
</table>
Table 3 shows that TTPP students who attended top-tier universities in Texas tend to have higher persistence rates compared to all other institutions in Texas, an average of about 10 percent between years and race. This aligns with the literature that shows Black persistence is impacted by demographic factors and institutional selectivity (Alon and Tienda 2005; Reason 2009). Notably, while the overall gap remains relatively stable for Whites and Latina/os, the gap between Black students attending flagships and attending all other institutions expanded from 7.5 percent to 12 percent from 2000 to 2008. This suggests that as more TTPP Black students enrolled in less selective public higher education institutions in Texas, their persistence steadily declined.

Table 4 — Top 10 Percent Six-Year Cohort Graduation Rate at Texas Public Universities (Freshman Entering 2000-2003)

<table>
<thead>
<tr>
<th>Year and University Type</th>
<th>White</th>
<th>Black</th>
<th>Latina/o</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>87.7%</td>
<td>77.8%</td>
<td>77.9%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>69.4%</td>
<td>52.3%</td>
<td>57.6%</td>
</tr>
<tr>
<td>2000-2001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>87.3%</td>
<td>80.3%</td>
<td>74.6%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>72.2%</td>
<td>52.0%</td>
<td>59.3%</td>
</tr>
<tr>
<td>2001-2002</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>86.5%</td>
<td>72.0%</td>
<td>77.8%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>68.6%</td>
<td>57.2%</td>
<td>59.6%</td>
</tr>
<tr>
<td>2002-2003</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Top-Tier University</td>
<td>87.4%</td>
<td>75.2%</td>
<td>75.4%</td>
</tr>
<tr>
<td>Other Texas University</td>
<td>70.5%</td>
<td>56.7%</td>
<td>60.5%</td>
</tr>
</tbody>
</table>
The historical graduation gap also exists between TTPP Black and White students. The gap for the four cohorts averages to about 11 percent for TTPP students at the top-tier institutions of higher education (see Table 4). At about 16 percent, the average gap of the four cohorts is even larger between White and Black TTPP students attending non-flagship institutions of higher education. While the graduation rates are nearly the same for Black and Latina/o TTPP students at UT-Austin and Texas A&M (an average gap of about a tenth of a percent), on average, more Latina/os than Blacks graduate from less-selective institutions (gap averages about 5 percent). The overall gap within groups for cohorts entering between 1999 and 2003 is also quite substantial by institutional selectivity: 17 percent for Whites and Latina/os and about 22 percent for Blacks. Considering that 70 percent of Black TTPP students do not attend Texas’s flagship universities, this large graduation rate gap has a disproportionate impact.

Discussion

The question of why integration at UT-Austin has struggled from the Sweatt period to the current day is mired in de jure, de facto, and societal factors. First, the dismantling of Plessy in Texas took place in a context of what historian Amilcar Shabazz (2004) termed “massive resistance”: procedural and legal foot-dragging until as late as the mid-1960s. Even when legal victories had been secured in federal courts, UT-Austin’s responses tended to follow the letter, but not the spirit, of the law. The initial TSUN Law School (the “Basement College”) was certainly separate but far from equal (Goldstone 2006; Shabazz 2004). Although by 1956, 104 Black undergraduate and graduate students were accepted at UT-Austin, “unwritten policies” termed them second-class citizens (Duren and Iscoe 1979). Certain instances at the university became social factors that greatly affected the reputation of UT-Austin, especially in Black communities. For example, opera superstar Barbara Smith Conrad was denied the opportunity to perform as the lead in a campus production in 1956 (Hames 2010), and UT-Austin had the dubious distinction of being the last all-White national championship football team in 1969 (Royal and Wheat 2005). With a strong state network of Historically Black Colleges and Universities free from such historical baggage (Willie et al. 2005), many TTPP Black students opted to attend these institutions. The experiences of many early UT-Austin Black students can be summarized in the words of alumnus John Hargis: “lonely and unpleasant” (as quoted in Goldstone 2006, 46).

While these events might seem distant to some, it is apparent that these wounds have yet to heal in the Black community. Historian Dwonna Goldstone noted that “many observers believe that UT-Austin and Texas A&M have not adequately addressed the negative racial climate that still exists on both campuses” (2006, 153). She further discussed the experiences of a student that struggled to make the decision to attend UT-Austin:

When it came time to select a college, [the student’s] family and friends warned him not to go to UT “because, quite frankly, the environment of UT is known for racism among black people. Hopwood, and other recent incidents in the past, have put African Americans in a certain mindset about UT. A lot of older people told me not to come here.” (as quoted in Goldstone 2006, 153)

Incendiary comments like UT-Austin law professor Lino Graglia’s 1997 statement that “Blacks and Mexican-Americans are not academically
competitive with Whites” because they grow up in cultures that “seem not to encourage achievement” (as quoted in Goldstone 2006, 153) echo racist beliefs of yesteryear.

It is always risky to attempt to predict what the future holds; however, recent events give rise to the possibility that historic rifts are starting to heal. The rise in African American enrollment in the midst of the TTPP, the establishment of an administrative Division of Diversity and Community Engagement, and the recent founding of the Department of African and African Diaspora Studies, which promises to enhance scholarship and research integral to the Black community, are considerable achievements for UT-Austin. Campus iconography of the present day includes statues of the Reverend Dr. Martin Luther King Jr., congresswoman Barbara Jordan, and NFL Hall-of-Famer Earl Campbell. And in a redemptive effort, the pioneering Black UT students (known as “The Precursors”) have returned to share their experiences with the campus and local community. Today, the voice of the university in public relations spots—formerly news icon Walter Cronkite—is Barbara Smith Conrad, the same woman at the center of the opera controversy of 1956.

Has UT-Austin come full circle? Will Black TTPP students continue to choose non-flagship universities? Will the reduction of the TTPP to the top 8 percent for the freshman class of 2011 reduce the enrollment of Blacks at UT-Austin? Researchers and policy analysts will need to closely monitor how these efforts, along with an increasingly conservative social and political climate, constricting state budgets, and declining appropriations, affect Black recruitment, enrollment, retention, and graduation rates. It is still an open question as to whether UT-Austin will live up to its Texas constitutional billing as a “university of the first class” for all its citizens.

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- Journal of African American Public Policy
- Mission Statement & Overview
- Executive Board & Journal Staff
- 2011 Online Edition
  - Actuating Equity: Historical and Contemporary Analyses of African American Access to Selective Higher Education from Sweatt to the Top Ten Percent Law
  - Identity and Public Policy: Redefining the Concept of Racial Democracy in Brazil
  - Political Cynicism and the Black Vote
  - Acknowledging Black Male Privilege
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