

Affirmative Action in Education

Why Percent Plans Don't Work

Texas, California, and Florida each have a long history of limited access to higher education for minorities. Given this history, universities in these states, especially at the flagship or most selective schools, have used race-conscious admissions practices to improve minority presence on campuses.

In the last decade, however, race-conscious higher education admissions policies in the three states have been challenged, and ultimately, abandoned—despite their legitimacy (as established by the Supreme Court in its 1978 *Regents of the University of California v. Bakke*. decision) and effectiveness in improving diversity on college campuses.

Texas

1992: Four White students who had been denied admission to the University of Texas law school files suit against UT, claiming that its admissions policy violated the Fourteenth Amendment (*Hopwood v. Texas*).

1996: The U.S. Court of Appeals for the Fifth Circuit holds that any consideration of race or ethnicity by the law school for the purpose of achieving a diverse student body served no compelling state interest under the Fourteenth Amendment, and prohibited the law school from considering race as a factor in admissions, thus effectively ending the University's affirmative action program.

1997: The Texas Legislature passes, and Governor George W. Bush signs into law, House Bill 588, making eligible for automatic admission all students in the top 10 percent of their graduating class, regardless of standardized test score to *any* public university in Texas.

California

1995: The University of California system's Board of Regents votes to ban the use of race/ethnicity in its admissions process (SP-1).

1996: Proposition 209 amends the California constitution by banning affirmative action in higher education admissions (as well as public employment and contracting).

1998: Proposition 209 is fully implemented in California.

1999: Governor Gray Davis proposes the "4 percent plan" under which each public and private high school graduate in the state finishing in the top 4 percent of his/her class receive guaranteed

admission to the University of California system. The University of California's Board of Regents votes 13-1 to put the automatic admissions plan, known as the Eligibility in Local Context, in place.

2001: The University Board of Regents votes to repeal SP-1, a largely symbolic gesture given the amendment to the California constitution mandated by Proposition 209.

Florida

1999: Ward Connerly brings a campaign similar to California's Proposition 209 to Florida (the referendum is ultimately struck down in the courts as unduly vague). While publicly opposing Connerly's initiative, Governor Jeb Bush voluntarily implements "One Florida" (Executive Order 99-281), eliminating the use of race and gender in government employment, contracting, and higher education admissions decisions.

Concurrent with the implementation of One Florida, Gov. Bush initiates the "Talented 20" policy to the Florida State University System, beginning with undergraduate admissions for fall 2000, which would guarantee system admission to public high school graduates who finish in the top 20 percent of their class and who complete the required coursework.

2000: The Talented 20 policy goes into effect, despite the fact that it lacks any implementation strategy.