

STUDENT GOVERNMENT  
THE UNIVERSITY OF TEXAS AT AUSTIN

100-C West Dean Keeton St., Suite 4.206 • Austin, Texas 78712 • (512) 471-3166 • FAX (512) 471-3408

passed  
Roll call  
Vote  
Amended

AR 28 The Student Government of the University of Texas at Austin does not support the Top Ten Percent Rule (HB 588) as the sole sufficient means of promoting and fostering ethnic and racial diversity at the University of Texas at Austin.

32 yes  
2 abst.  
2 no

Whereas: In 1996, the 5<sup>th</sup> U.S. Circuit Court of Appeals of the United States of America ruled that race based affirmative action policies ~~were~~ illegal. This exercise judicial fiat has resulted in dismantling of affirmative action programs all over the nation, while guaranteeing the states of Texas, Louisiana, and Mississippi are unable to use race as a determining factor in admissions<sup>1</sup>.

Whereas: This exercise of judicial fiat was an act that defied the interpretation and precedents established by the 1978 Regents of the University of California v. Bakke decision ruled on by the Supreme Court of the United States of America, which ruled that racial diversity in higher education should be a compelling interest of the state.

Whereas: Racial diversity in higher education is under attack. BARBARA GRUTTER v. LEE BOLLINGER, ET. AL. has been granted certiorari to the Supreme Court of the United States of America. This test case will set a national precedent concerning the use of race as a determining factor for admissions to higher education facilities.

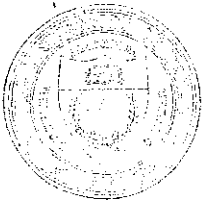
Whereas: President George W. Bush has publicly asserted that race based quota systems, like those used at the University of Texas before the Hopwood decision, violate the law<sup>2</sup>. As an alternative, President George W. Bush is promoting the state of Texas' alternative to race-based quotas to be implemented on a national level. This alternative is known as the, "Top Ten Percent Rule (HB 588)," and states:

Sec.51.803. AUTOMATIC ADMISSION: ALL INSTITUTIONS. (a) Each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated in one of the two school years preceding the academic year for which the applicant is applying for admission from a public or private high school in this state accredited by a generally recognized accrediting organization with a grade point average in the top 10 percent of the student's high school graduating class. To qualify for admission under this section, an applicant must submit an application before the expiration of any application-filing deadline established by the institution. Whereas: President of UT-Austin, Dr. Larry R. Faulkner, affirmed the

<sup>1</sup> Lavergne, Gary M.. The University of Texas at Austin Demographic Analysis for Fall 2002, "Implementation and Results of the Texas Automatic Admissions Law (HB 588)."

<sup>2</sup> The University of Texas at Austin Administrative Press Release, "The University of Texas at Austin's experience with the "Top Ten Percent" Law." January 16, 2003.

[http://www.utexas.edu/admin/opa/news/03newsreleases/nr\\_200301/nr](http://www.utexas.edu/admin/opa/news/03newsreleases/nr_200301/nr)



Top Ten Percent Rule on October 19, 2000, stating: "The Top Ten Percent Law (HB 588) guarantees that Texas high school graduates who rank in the top 10 percent of their senior class will be admitted to any state institution of higher learning."<sup>3</sup>

Whereas: The Top Ten Percent Rule (HB 588) is resulting in the dismantlement of the University of Texas at Austin's provisional admissions program. The provisional program originally was intended to give students, who had not been regularly admitted to the University, a chance to prove themselves in the highly competitive UT Austin academic environment.

Whereas: The quality of provisionally admitted students is equivalent to those students admitted through the Top Ten Percent plan. On October 16, 2000 the Faculty council passed a resolution stating, "...[I]n recent years, the quality of the provisionally admitted students has improved to a point where many of them perform at a level equivalent to students who were regularly admitted..."

Whereas: On January 31, 2001, in *The Daily Texan*, UT President Larry Faulkner is quoted to have said that having students from the top 10 percent program and the provisional program at the University next fall would create excessive competition over the University's limited resources, adding, "We can't put that number of students on campus."

Whereas: Faulkner has stated that the current provisional program for admissions must be changed if the University wants to take control of increasing enrollment, which consists of more than 52,000 students.

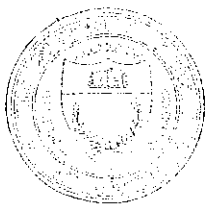
Whereas: The Top Ten Percent Rule (HB 588) is not improving minority enrollment at the University of Texas at Austin. Marta Tienda, a sociologist studying the Ten Percent Rule from Princeton University, stated: "...[T]he state's top 10 percent law is inadequate and illustrates a need to maintain race-conscious admissions policies."<sup>4</sup>

Whereas: The Fall enrollment of African-American students at the University of Texas at Austin has functionally<sup>5</sup> declined with the Top Ten Percent Rule (HB 588) in place of the affirmative action programs that were deemed illegal under the Federal 5<sup>th</sup> Circuit Court of Appeal's Hopwood decision. In 1996, the University of Texas at Austin, which

<sup>3</sup> Dr. Faulkner, Larry R. The University of Texas at Austin, "'The Top Ten Percent Law' is Working for Texas." October 19, 2000. <http://www.utexas.edu/president/speeches/10percentlaw.html>

<sup>4</sup> Rodriguez, Erik and Jayson, Sharon. *The Austin American Statesmen*, "Study: Top 10 Law Does Not Bring Diversity." January 24, 2003.

<sup>5</sup> "functionally" herein is based statistical data and refers to the operation (the decline/increase) of social and physical interaction of students at the University of Texas when in the academic setting



consisted of 48,008 students, had 1,911 African-American students enrolled in the fall semester. In 2002, the University of Texas at Austin, whose student population increased to 52,261 students, had 1,674 African-American students enrolled in the fall semester<sup>6</sup>.

Whereas: The Fall enrollment of Hispanic students at the University of Texas at Austin has functionally declined with the Top Ten Percent Rule (HB 588) in place of the affirmative action programs that were deemed illegal under the Federal 5<sup>th</sup> Circuit Court of Appeal's Hopwood decision. In 1996, the University of Texas at Austin, which consisted of 48,008 students, had 3,105 Hispanic students enrolled in the fall semester. In 2002, the University of Texas at Austin, whose student population increased to 52,261 students, had 3,089 Hispanics students enrolled in the fall semester<sup>7</sup>.

Whereas: The Fall enrollment of white students at the University of Texas at Austin has functionally increased with the Top Ten Percent Rule in place of the affirmative action programs that were deemed illegal under the Federal 5<sup>th</sup> Circuit Court of Appeal's Hopwood decision. In 1996, the University of Texas at Austin, which consisted of 48,008 students, had 31,346 white students enrolled in the fall semester. In 2002, the University of Texas at Austin, whose student population increased to 52,261 students, had 31,454 white students enrolled in the fall semester<sup>8</sup>.

Whereas: The ~~functional~~ <sup>statistical</sup> decline in white student enrollment at the University of Texas at Austin with the Top Ten Percent Rule in place of the affirmative action programs that were deemed illegal under the Federal 5<sup>th</sup> Circuit Court of Appeal's Hopwood decision has not resulted in an increase of Hispanic or African-American enrollment or representation on the University of Texas at Austin campus or in the classroom.

Whereas: The specific reference to Hispanic and African-American statistics is not an attempt to reinforce discrimination of other communities of color or ethnicities that are not specifically mentioned in AR 27, "The Student Government of the University of Texas at Austin does not support the Top Ten Percent Rule (HB 588) as the sole sufficient means of promoting and fostering ethnic and racial diversity at the University of Texas at Austin."

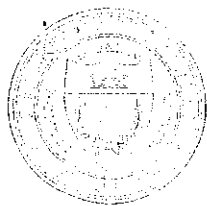
<sup>6</sup> The University of Texas at Austin Office of Institutional Research, "Fall Enrollment by Ethnicity and Gender." 2002-2003 Statistical Handbook.

[http://www.utexas.edu/academic/oir/statistical\\_handbook/02-03/students/s05/](http://www.utexas.edu/academic/oir/statistical_handbook/02-03/students/s05/)

<sup>7</sup> The University of Texas at Austin Office of Institutional Research, "Fall Enrollment by Ethnicity and Gender." 2002-2003 Statistical Handbook.

[http://www.utexas.edu/academic/oir/statistical\\_handbook/02-03/students/s05/](http://www.utexas.edu/academic/oir/statistical_handbook/02-03/students/s05/)

<sup>8</sup> Ibid.



STUDENT GOVERNMENT

THE UNIVERSITY OF TEXAS AT AUSTIN

100-C West Dean Keeton St., Suite 4.206 • Austin, Texas 78712 • (512) 471-3166 • FAX (512) 471-3408

Whereas: Data of the Profile of First-Time Freshmen of the 2002 Fall and Summer entrants to the University of Texas at Austin shows there has been a functional decline in the enrollment of African-American students at the University of Texas at Austin from 4.1% in 1996 to 3.4% in 2002<sup>9</sup>.

Whereas: The Top Ten Percent Rule (HB 588) is not the sole factor of admissions in:

The School of Architecture  
The Department of Art and Art History  
The McCombs School of Business  
The College of Communication  
The Department of Computer Sciences  
The College of Engineering  
The School of Journalism  
The School of Music  
The School of Nursing  
The College of Pharmacy  
The Plan II Honors Program  
The Business Honors Program  
The School of Social Work  
The Teacher Certification Program  
The Department of Theatre and Dance

Whereas: On April 27, 2000, President of the University of Texas at Austin, Dr. Larry R. Faulkner, addressed the university community on the issue of diversity on the UT-Austin campus, stating: "It is vital to the success of our mission that we maintain a campus that is inviting and welcoming to all sectors of the diverse population of Texas and our nation. Higher education is a door of opportunity that must remain wide open... This administration [of the University of Texas at Austin] remains committed to fighting intolerance and bigotry on the campus of the University of Texas at Austin by all legal means."<sup>10</sup>

---

<sup>9</sup> The University of Texas at Austin Office of Institutional Research, "Profile of First-Time Freshmen: Fall and Summer Entrants Combined." 2002-2003 Statistical Handbook.  
[http://www.utexas.edu/academic/off\\_institutional\\_handbook/02-03\\_students.s10](http://www.utexas.edu/academic/off_institutional_handbook/02-03_students.s10)

<sup>10</sup> Dr. Faulkner, Larry R. The University of Texas at Austin, "An Open Letter to the University Community." April 27, 2000. <http://www.utexas.edu/president/speeches/openletter.html>



STUDENT GOVERNMENT

THE UNIVERSITY OF TEXAS AT AUSTIN

100-C West Dean Keeton St., Suite 4.206 • Austin, Texas 78712 • (512) 471-3166 • FAX (512) 471-3408  
Whereas: On November 16, 1998, President of the University of Texas at Austin, Dr.

Larry R. Faulkner, made a public statement concerning legality of affirmative action and the necessity of diversity on the UT-Austin campus, stating: "I believe that The University of Texas at Austin has a **sacred obligation** to promote participation by students from all ethnic populations of Texas and to serve them effectively. I am committed to achieving our duty to the people by succeeding in this obligation."<sup>11</sup>

Therefore Be it Resolved: The Student Government of the University of Texas at Austin recognizes the State of Texas' Legislature, The University of Texas at Austin's Administration, and the University of Texas System's Board of Regents efforts to increase racial and ethnic diversity at the University of Texas at Austin campus. Yet, the Student Government of the University of Texas at Austin believes that the Top Ten Percent Rule (HB588) ~~does not fulfill~~ the University's "sacred obligation" of maintaining a racially diverse academic atmosphere, nor does it fulfill higher education's interest in diversity as a compelling state interest.

*is not the sole sufficient means to fulfill*

Therefore be it Further Resolved: The Student Government of the University of Texas at Austin believes that minority recruitment and enrollment has functionally declined since the dismantlement of race based affirmative action admissions program from the Hopwood decision in 1996.

Therefore be it Further Resolved: The Student Government of the University of Texas at Austin requests that Dr. Larry R. Faulkner, fulfill his statements made on November 16, 1998. The University of Texas at Austin, and President Larry R. Faulkner, have a "sacred obligation" to express the discontentment of the student body of the University of Texas who feels that the Top Ten Percent Rule is ineffective in promoting diversity in higher education facilities.

Therefore be it Further Resolved: The Student Government of the University of Texas at Austin urges Dr. Larry R. Faulkner to address the inadequacies of the Top Ten Percent Rule at the University of Texas in response to President George W. Bush's declaration that the Top Ten Percent Rule (HB 588) should be implemented as a nationwide model in a public forum sponsored the Student Government of the University of Texas at Austin.

**Authored By: Ben Durham (Liberal Arts), Mandy Price (Internal Financial Director)**

**Sponsored By: Ben Durham (Liberal Arts), Kevin Curry (2 yr. At Large), Brian Haley (2 yr. At Large)**

<sup>11</sup> Dr. Faulkner, Larry R. The University of Texas at Austin, "Public Statement on Affirmative Action." November 16, 1998. <http://www.utexas.edu/president/speeches/statement.html>