

**Corpus Christi Caller-Times (Texas)**

**June 25, 2004, Friday**

**SECTION:** Texas/Mexico News; Pg. B3

**LENGTH:** 619 words

**HEADLINE:** Universities urge caps to top 10 percent rule  
Schools want flexibility in admissions

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**BODY:**

AUSTIN - University officials urged lawmakers Thursday to cap the top 10 percent university admission law at 50 percent of a freshman class to give schools more flexibility to recruit minority and talented high school students.

The Senate Subcommittee on Higher Education is studying the top 10 percent law in preparation for the legislative session in January.

The law, which was created in 1997 by the late Kingsville Rep. Irma Rangel, guarantees admission to any public university for high school students who graduate in the top 10 percent of their class.

Critics of the law question whether students from low-performing high schools in the top 10 percent of their class are as academically qualified as students from high-performing schools who fall short of the top 10 percent.

Gov. Rick Perry and others say students who fall slightly below the top 10 percent are going to out-of-state universities because they couldn't get into the state's flagship schools.

"I voted against the top 10 percent law because I felt students in competitive high schools would get crowded out and we are seeing that's happening," said Sen. Kyle Janek, R-Houston. "We are seeing good students get accepted by Yale and Rice, but not (the University of Texas)."

But there's no proof to Janek's assertion, said **Marta Tienda**, a Princeton University sociology professor, who has researched the top 10 percent law. In 2002, she surveyed thousands of Texas high school students before and after they entered university.

"Those who leave the state want to because it's their first choice," Tienda said. "The flagships are backups."

Tienda recommended lawmakers cap the top 10 percent law at 50 percent of a freshman

class and rescind the promise that students can get into their school of choice.

Lawmakers should guarantee admission to a university system, such as University of Texas or Texas A&M, and allow campuses to pick the students, she said. She also urged lawmakers to boost funding to universities to create more flagship schools to relieve pressure from Texas A&M and the University of Texas.

Officials at the University of Texas and Texas A&M said they lack the flexibility to recruit exceptional students who are not in the top 10 percent because the majority of freshmen get automatic admission. Seventy percent of University of Texas freshmen get automatic admission, while it's 50 percent at Texas A&M.

Lawmakers also questioned the effectiveness of the top 10 percent law in boosting minority enrollment. The top 10 percent law was created to replace a defunct affirmative-action practice banned by the courts. While minority enrollment has grown slightly, it's barely recovered from a dip in the late 1990s after affirmative action was disallowed.

Minority student enrollment at Texas A&M has increased.

But Erle Nye, vice chair of the Texas A&M University Board of Regents, said it's because the school created student centers across the state to aggressively recruit minority students and provide assistance in applying for financial aid.

Opponents of affirmative action say the top 10 percent rule is the best race-neutral program.

"You can achieve diversity because it's done it," said Curt Levey, director of legal and public affairs at the Center for Individual Rights, which challenged affirmative actions programs in Texas and Michigan. "In order to use race, it can't be for racial balance. It has to be individual achievement."

University of Texas law professor Douglas Laycock argued the top 10 percent law should be capped at 50 percent to allow universities to review individuals' files and perhaps even use race as a factor in choosing remaining students.