

Can a Percent Plan Be a Successful Race-Neutral Alternative to Race-Conscious Affirmative Action in Maryland?

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For decades, Black and Hispanic students have been underrepresented in the U.S. higher education system. These enrollment disparities have been particularly large at selective colleges—those schools, public and private, that roughly admit less than one-third of their applicants. In part, these enrollment gaps arise out of the inequities that lead to race-based academic achievement gaps, including unequal access to educational opportunities and teacher bias (Carter & Welner, 2013; Duncan & Murnane, 2011; Ferguson, 1998; Kane, 1998). Because White and Asian students tend to have higher GPAs than Black and Hispanic students and perform better on standardized tests such as the ACT or SAT, if colleges were to admit students based solely on apparent academic achievement, students at selective higher education institutions would be disproportionately White and Asian. In response to this challenge, many of these colleges have turned to race-conscious affirmative action policies to boost the enrollment of underrepresented minority students.

However, the 2013 *Fisher v. the University of Texas* decision from the Supreme Court (and scheduled rehearing of the case in the 2015-16 term) has thrown the future use of race-conscious affirmative action into doubt. In the original decision, justices asked that colleges and universities wanting to use such policies show there are no workable race-neutral alternatives to race-conscious affirmative action that would achieve the similar levels of diversity.

Some states have already started to try supposed race-neutral alternatives. California, Florida, and Texas all use some version of a “Percent Plan.” In general, percent plans guarantee an applicant admission to public colleges if the applicant graduates within some top percentage of their own high school class. For example, Texas admits students who graduate in the top ten percent of their high school class to their college of choice within the University of Texas system. The goal of this brief is to explore whether and how a percent plan might work in Maryland.

The Logic of Percent Plans

Percent plans have the potential to work as race-neutral alternatives to race-conscious affirmative action by not explicitly admitting students based on their race or ethnicity, but rather by taking advantage of residential and high school segregation. The more segregated a high school system, the more likely racial and ethnic minority students will fall in the top percentage of their class and a more diverse group of students will be admitted under a percent plan.

For example, if there were no racial segregation between high schools then each high school would have the same racial composition as the state as a whole and admitting the top ten percent from each school would be equivalent to admitting the top ten percent in the state—a strategy destined to admit the same racially-uneven group of students a purely meritocratic system would admit. Alternatively, if the state’s high schools were completely segregated, then admitting the top ten percent of students from each high school would be equivalent to admitting the top ten percent of students from each race/ethnicity and the college population would reflect the population of the state as a whole. Thus, the best-case scenario for percent plans to be successful would be a world where high schools were perfectly segregated. This scenario is patently undesirable, but serves to underscore exactly how percent plans are not as race-neutral as they might at first seem. As Justice Ginsburg keenly noted in her *Fisher* opinion, “Only an ostrich could regard the supposedly neutral alternatives as race unconscious” (*Fisher v. University of Texas*, 2013, p 2433).

No state is perfectly segregated, so no percent plan will generate a class of admitted students that perfectly reflects the state population. But it is an open question how much segregation might be required for a percent plan to successfully generate a reasonably diverse group of college students, or even a group of students that is comparably diverse to that achieved under race-conscious affirmative action policies.

The Effect of Percent Plans

Scholars have studied the extent to which the three states that have percent plan policies in place—California, Florida, and Texas—have been able to maintain the diversity they achieved with race-conscious admissions under the new race-neutral policies.

Florida has been the most successful in terms of maintaining its pre-percent plan levels of diversity. The state saw no major drop in enrollment after it abandoned race-conscious affirmative action. However, Florida’s percent plan is the most generous—admitting applicants who graduate in the top 20 percent of their high school class—and so the new percent plan may have cast a wide enough net to admit the same students it would have under race-conscious affirmative action (Long, 2004).

In California and Texas—which admit the top 9.5 and 10 percent, respectively—percent plans have been less successful. In fact, these percent plans have only been able to retain about one third of the students lost when the states abandoned race-conscious affirmative action policies (Long 2007). In particular, Long (2007) found that, under percent plans, minority representation on these campuses have recovered only about a third of what they lost as a result of affirmative action bans.

More detailed studies of the percent plan in Texas have revealed some nuance behind these disappointing results. The most dramatic findings were at the Texas flagship institutions, whose more selective admissions have the potential to exclude lower-performing racial minority students. Post-affirmative-action racial diversity at these schools was worse than at non-flagship Texas universities (Aflanso & Calcagno 2007). However, the percent plan was better at inducing Hispanic students to enroll at these schools—increasing their likelihood of enrollment by about 12-14 percentage points—than Black students (Niu & Tienda 2010).

Simulation in Maryland

We set out to determine if we can expect the same results from a percent plan in Maryland as we saw in California, Florida, and Texas. Are those states typical of what others might expect if they adopted percent plans? Or is there something particular about those states that

helped them see the results that they did, weak as they were?

Because we cannot enact a percent plan in Maryland just to see what happens, we must simulate what we think will happen. To do this, we need to know the racial composition of the top percentage (we will use ten percent) of each high school in Maryland. Although these particular data are not available to us, there are other data sources that might be helpful.

The National Education Longitudinal Study (NELS)—a nationally representative data set of students in the high school class of 1992—is one such data set. While this data may seem out of date, we use it for two reasons. First, it is the most recent nationally representative data where we are able to observe a student’s class rank. Second, 1992 was one of the last years before race-conscious affirmative action was banned in college admissions in some states, which means that we can compare the results of our simulations to actual college enrollments at a time point prior to when affirmative action bans might have started to shift students’ college enrollment choices.

With this data, our analysis is relatively straightforward. The main goal of the analysis is to make an educated estimation of the composition of a high school’s top ten percent given the racial composition of the entire school. We accomplish this by looking at the students in our data, for whom we know the student’s race, class rank, and the racial composition of the high school they attend. From this information we use a regression to predict the likelihood that a student of a given race, at a high school of a given racial composition, is in the top ten percent of their class. This logistic regression takes the general form:

$$\begin{aligned} \Pr(\text{Top}10_{is}) \\ = \beta_0 + \beta_1 \text{Race}_i \beta_1 + \text{Race}\%_s \beta_3 + \text{Locale}_s \beta_3 \\ + \text{Region}_s \beta_4 + \text{Interactions}_{is} \beta_5 + \varepsilon_{is} \end{aligned}$$

In other words, this regression predicts the probability a student is in the top ten percent of their high school class given their race, the racial composition of their high school, the locale of their school (urban, suburban, or rural), the geographic region of country the school is in, and various interactions that allow the relationship between high school rank and the characteristics of a student’s school to be different depending on the student’s race.

With the result of the regression for the student and schools in the NELS sample in hand, we then assume that these predicted relationships will be the same at high schools of similar racial composition, but that we do not observe in the NELS data. This allows us to use this information to estimate the racial composition of the top ten percent of students at all public Maryland high schools in 1992. The results of this simulation give us the racial composition of a hypothetical class that might be admitted under a Maryland ten percent plan.¹

Assumptions

Before discussing the results of this simulation, it is worth highlighting several implicit, but important, assumptions about this analysis. Note that all of these assumptions are stacked in favor of our simulations showing that percent plans will create a racially diverse class of students. First, we really only have data on the racial composition of entire high schools, not their 12th grade class. To the extent that students who drop out of high school are disproportionately from minority groups, this assumption will inflate the likely number of minority students that are admitted under our simulated percent plan.

Second, because we are only able to predict the top ten percent of students at public schools, we must assume that private schools in Maryland are similarly composed as public

¹ See Klasik and Dayhoff (2014) for a more detailed explanation of the simulation strategy.

schools. If private schools are less diverse than public schools, our simulation will exaggerate the number of minority students a percent plan in Maryland would admit.

Finally, for simplicity, we assume that students in the top ten percent of their high school apply to and enroll in college in similar proportions. In reality, we believe that Black and Hispanic students tend to apply and enroll at lower rates than White and Asian students (this was observed in Texas after the enactment of its percent plan), so again this assumption will lead us to simulate a more racially diverse class than may actually happen under a percent plan.

As a result, we believe the results we present below represent a theoretical upper bound to what Maryland would achieve if it adopted a percent plan policy without also adopting other measures to encourage minority student enrollment.

Results

Table 1 compares the simulated composition of a class of students admitted to the University System of Maryland under a hypothetical ten-percent plan and the actual composition of the four-year Maryland public schools that was observed in 1992 under Maryland’s existing race-conscious affirmative action policy.

In 1992, 29.7 percent of the college-age population in Maryland was Black. This percentage was actually quite close to 26.7 percent, the percentage of students who were enrolled in four-year Maryland public universities that were Black. However, under a simulated percent plan, the percent of the students enrolled in Maryland public universities that would be Black falls to 16 percent, a 40 percent drop from the diversity achieved under race-conscious admissions policies.

The state fares better when it comes to Hispanic enrollment, although this may be because of the relatively small percent of Hispanic college-age individuals in Maryland in 1992—just 2.3 percent compared to 11.0 percent in 2010. Under a simulated percent plan, Hispanics would make up 2.8 percent of the four-year students in the public system, 17 percent higher than the 2.4 percent the state actually enrolled in that year.

Finally, White student enrollment would increase roughly 18 percent from the population of students who actually enrolled in the Maryland system in 1992. Under a percent plan, we predict White students would make up about 73 percent of the Maryland system population, compared to 64 percent of the college-age population in Maryland in that year.

Table 1. Diversity of Maryland students in the state as a whole, under a simulated percent plan, and actual public university enrollment, 1992.

	Population %	Simulated Percent Plan %	Actual Public Institution %	Percent Difference (simulated – actual)/actual
Black	29.68	16.00	26.74	-40.16%
Hispanic	2.28	2.81	2.40	+17.08%
White	63.86	72.96	61.68	+18.29%

Conclusion

With race-conscious affirmative action admissions policies under increasing legal threat, it is important for states to consider what alternatives exist to achieve racial diversity in their public university systems. Percent plans are one strategy that some states have tried, but with limited success and little indication of whether and where these plans might be successful if adopted in other states.

This brief simulated what might have occurred if Maryland had adopted a percent plan and found that the state's representation of Black students in the public education system would drop dramatically, with little change to Hispanic representation and a substantial increase in the White student population. While these results would likely look different if they were enacted in Maryland today, which is quite a bit more diverse than it was in the early 1990s. However, in separate simulations we conducted in other states, *no* state appeared able to maintain the representation of Black students it had achieved under affirmative action policies, and very few were able to maintain their Hispanic student population (Klasik & Dayhoff, 2014). Therefore, while there may be some other workable race-neutral alternative to affirmative action, there is not yet evidence that percent plans can be a sufficient substitute for race-conscious policies.

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About the Maryland Equity Project

The Maryland Equity Project seeks to improve education through research that supports an informed public policy debate on the quality and distribution of educational opportunities. It conducts, synthesizes, and distributes research on key educational issues in Maryland and facilitates collaboration between researchers and policymakers. The Maryland Equity Project is a program in the Department of Teaching and Learning, Policy and Leadership in the College of Education at The University of Maryland.

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