

# State high school exit exam discriminatory, lawyers say

SAN ANTONIO (AP) — The state's high school exit test discriminates against blacks and Hispanics and should not be used as a graduation requirement, lawyers for minorities argued yesterday.

Minorities have been negatively affected by the exit-level Texas Assessment of Academic Skills (TAAS) since the exam began in 1990, Al Kauffman, an attorney for the Mexican American Legal Defense and Educational Fund (MALDEF), said.

"The test discriminates on race," Kauffman said in federal court. "The state has developed and used an invalid test in an invalid way to deny opportunity to thousands and thousands of minority students."

Attorneys for the Texas Education Agency contend the standardized exam is crucial to its school accountability system and that the test contributes to student achievement.

"It's not punishment. It's ensuring that they get that core education," Geoffrey Amsel, an assistant attorney general, said.

The plaintiffs have tried "to paint a frown across a face that's a very happy face," Amsel said.

The lawyers' remarks came in closing arguments of a five-week trial before U.S. District Judge Ed Prado. The judge's ruling is not expected for at least a month.

"It's probably the most challenging decision I've had to make in the time I've been here," Prado, a 15-year veteran of the federal bench, said.

MALDEF filed the lawsuit on behalf of minority groups and students. Some plaintiffs successfully completed their high school course work but were denied diplomas because they never passed the TAAS.

Students first take the exit-level test in reading, writing and math in 10th grade.

They have several chances to take it and must pass it to graduate. Nineteen states currently require students to pass a test in order to graduate from high school.

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— Ed Prado  
U.S. District Judge

MALDEF brought the lawsuit under federal regulations barring discrimination by states receiving federal education money. The plaintiffs also cited their right to due process. Prado earlier dismissed the plaintiffs' allegation of intentional discrimination by the state.

The Hispanic rights group argues that minority dropout rates have increased since the advent of the TAAS test and that minority retention in ninth grade has gone up so that schools can ensure higher exam scores the following year.

MALDEF alleges that ultimately 20 percent of Latinos and blacks fail the exit test counting all of their attempts, compared with a failure rate of 10 percent for white students.

The TEA has year-by-year figures on the passing rate of 10th-grade students by ethnicity, but has not provided statistics reflecting success or failure looking at overall attempts during high school.

Last spring, 75 percent of all sophomores taking the TAAS test passed. The pass rate was 60 per-

cent for blacks, 64 percent for Hispanics and 86 percent for whites.

While acknowledging gaps exist in pass rates between minorities and whites, those gaps are closing, the state's attorney said.

"Is that why we're now going to have a new test that is harder — so the gap can go back to the way it was?" Prado asked Amsel during closing arguments. The judge was referring to new state academic skills tests being implemented.

Amsel said passing the TAAS signifies "true learning with reading, writing and arithmetic."

Kauffman said the plaintiffs do not mind use of the high school TAAS test as a diagnostic tool.

But MALDEF and its clients object to its "high stakes" use as a requirement for a student's diploma.

"The denial of a high school diploma has tremendous consequences on a student," Kauffman said.

He reminded the judge of testimony that some young people are denied military entry because they did not pass the TAAS.

But the state contends use of the test and classroom teaching of skills reflected in the test have led to "dramatic gains in performance" by students, including minorities.

MALDEF contends there are other less discriminatory alternatives.

Among the witnesses in the trial was former Texas education commissioner Mike Moses, who championed creation of the test. He testified the state has an interest in making sure all students can meet a standard.

The plaintiffs argued that minorities tend to be in low-income and lower-performing school districts and do not have an equal opportunity to acquire academic skills needed to pass the exam.

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# Official push for Texans to vote

AUSTIN (AP) — Urging Texans to vote in next week's elections, state officials were blunt yesterday.

"A lot of people say if you don't vote, don't gripe. I guess that's the bottom line," Sen. Gonzalo Barrientos, D-Austin, said.

"If you're a proud Texan, get out and vote. Period. No excuses," Secretary of State Elton Bomer, the state's chief elections officer, said.

Seventeen proposed amendments to the Texas Constitution will be determined in the Nov. 2 ballot, along with a number of local elections. Gov. George W. Bush cast his ballot yesterday morning, taking advantage of the state law that allows early voting through Friday.

Bomer is traveling to San Antonio, Waco, Longview, Houston, Corpus

Christi, McAllen, Midland and Lubbock to urge voters to go to the polls.

But turnout in recent constitutional amendment votes has been low — under 11 percent in each of the past three elections.

Barrientos noted that the 17 propositions being decided this year include what homeowners can do with the equity in their houses and whether the state will have another \$400 million in loans for middle- and low-income college students.

"So the question is, are we going to vote and make the decisions that affect our families, our finances and our futures? Or are we going to let someone else do it for us and hope we agree?" the lawmaker asked.

Bomer said he would offer a turnout prediction after early voting concludes.

According to the latest figures from the secretary of state's office, however, fewer than 1 percent of the 6.8 million registered voters in the 15 largest counties had cast early ballots in the four days that ended last Thursday.

Bexar County topped the list with 3.5 percent turnout. Each of the other 14 big counties had recorded turnouts of under 1 percent.

Voters in Houston and San Antonio could play a decisive role on this year's amendments because of local issues and races on the ballot.

Bexar County voters are deciding whether to increase hotel and car rental taxes to help fund a \$175 million arena for the San Antonio Spurs. A special election to replace resigning state Sen. Greg Luna, D-San Antonio, also is being held.

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