

# **Gauging the Administrative Impact of Political Ideology Rifts between Legislatures and Higher Education in the Context of Texas' Campus Carry Law**

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## **Abstract**

Despite opposition from those on campuses, the Texas legislature passed Senate Bill 11 in 2015 to allow individuals with a license to carry a concealed handgun at four-year colleges and universities beginning August 1, 2016. This study analyzes the process of translating conservative policy to perceived liberal institutions. To conduct this analysis, I conduct a comparison to the affirmative action debate in California and Texas, a review of the public opinion of students and faculty, and a study of implementation practice at the University of Texas at Austin to explore the administrative effects of this policy. Results of this analysis show a process that straddles the lines of the rational actor and principal-agent models as administrators on college campuses attempt to carry out their function and responsibilities while dealing with their ethical standards as well as their students and symbolizes the gap between conservative legislatures and liberal institutions.

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## Introduction

The past 50 years has seen a significant shift in the attention paid to legislative impact on higher education administration. Estimating and analyzing the role of legislative decision-making in specific areas regarding policy and rule-making on day-to-day administrative functions on college and university campuses is a significant endeavor. Government actors at the national and subnational level have sought to guide and control the path and growth of culture and procedures on these campuses. (Engel 1984) As governments, particularly legislative entities, has attempted to extend their reach into processes and policy activity on campuses, decision-makers within these institutions have been forced to determine how best to implement policy while balancing the needs of students. Deciding a course of action requires considering the impact of the gap between the political ideology and social and policy goals of two diverse and often conflictual groups: legislatures compared to academics and young students. (Lane 1983)

In Texas, this debate has emerged as several factors have created an interesting and, at times, conflictual dynamic. Texas has followed the lead of the federal legislature, empowering the state's position as director of higher education by passing policy mandates developed in the politically conservative legislature to be carried out on college campuses. That conservative ideology and conservative impact on policy have caused a perceived rift between it and many of the 105 public colleges and universities operating in the state of Texas. How does this ideological rift impact the policy implementation process for these higher education institutions?

To study this issue, I examined the impact of guns on campus on legislative policy in and administration in Texas. Senate Bill 11 was passed in 2015 by a 20-11 vote. Its passage allows those on college campuses who have a state-issued license to carry to exercise their second amendment right at public institutions and potentially at private institutions although those campuses can choose to opt out of the law. Proposal and passage of the law sparked a significant amount of debate, and campus students, faculty, and staff were vocal in their opposition to the bill during the 2015 session. Despite the outcry, the conservative legislature passed the bill, citing a desire to strengthen citizens' Second Amendment rights and to mitigate the impact of mass violence on campuses in the state. Implementation of the bill

started at four-year institutions in fall 2016. Between the time of the bill's passage and its roll-out, institutions were left to parse through the bill and determine the level of administrative power or control they will be able to exert.

This analysis will explore the effect that the legislative decision has had on administrative activity and administrators' ability to manage and direct faculty and students effectively. The questions to be answered is: how does legislative policy-making in Texas impact campus administration as it pertains to implementing a policy that those at the institution are ideologically opposed? What is the effect of SB 11 on the administrative process at higher education institutions? What impact does conflictual political ideology play in this relationship? Addressing these questions will further our understanding of the relationship between the legislature and policy administrators at higher education institutions within the state. Gaining this understanding will provide context to the decision-making process and to the challenges of balancing legislative directives and public appeasement in university administration.

### **Research approach**

I argue that conflicting ideology between the legislature and those at higher education institutions leads to a volatile implementation process that risks the ability of institutions and their administrators to effectively carry out the policy while preserving the ethics and ideology of students and employees. I address this claim in three stages. The first part presents the current state of literature regarding the relationship between higher education and national and sub-national legislatures. Providing this context frames the need and current state of the questions posed in this analysis. The second part of this analysis provides context for the debates in Texas. This paper focuses on three issue/policy areas that have impacted the relationship the state and institutions of Texas. Examining the debate regarding affirmative action regarding allowing minority status or demographics to guide admission decisions will provide context into how the legislature and campus decision-makers interact.

The third part of this analysis will be a normative analysis of SB 11 and the processes and procedures that accompanied its

implementation. SB 11 allows public and private institutions that are implementing the law certain rule-making authority in areas such as declaring safe zones and procedures for safety on campuses. Analysis of these areas of administrative rulemaking provides an opportunity to examine the activities and practices that institutions can exercise to mitigate the impact of an unwanted law. The University of Texas at Austin is used as a case study to examine the procedures used to develop their institutional policies. I consider political participation generally, both in support and against the law on campuses, the interaction and role the students and faculty could play in the process, and how closely the final outcomes are to the "intent" of the law itself. UT-Austin, the state's flagship university, was chosen for its high-profile position and the actions taken in debating and implementing the law. Examining the activity and procedures taken at the institution will provide a needed view in the procedures and rule-making processes that accompany SB 11.

#### **Literature review of legislative activity and higher education**

Traditionally, state legislatures have largely been bystanders of decisions affecting higher education. Decisions regarding curriculum and procedure were left to campus officials and academics, those most closely connected and trained in it. That has changed over the past 30 years as state governments, facing political and public demands, have pushed to standardize and control various aspects of higher education. (Hearn and Holdsworth 2002) Accountability regarding performance, policies, and procedures on campuses has become a significant source of debate. Legislative oversight and coercive federalism tactics challenge the balance of academic freedom and autonomy that guide action in areas where state legislatures once refrained from interfering. (Hearn and Holdsworth 2002)

This trend is enhanced when state action is perceived as a strategy for political gain. A common perception is that politics underpins policy-making decisions, and the effect extends into higher education as politically-natured legislatures make policy based on political ideology that will be carried out on campuses. (Newman 1987) The veracity and effectiveness of this perception is in question. How these policies, and administrative procedures by extension, are created shapes the impact they will have on campus activity and

created shapes the impact they will have on campus activity and cohesion.

Policies have three main approaches: bureaucratic, ideological, and political. (Newman 1987) These frameworks provide guidance in how to categorize and identify motivation regarding policy. Bureaucratic motives are administrative in nature, guiding procedure and process. The ideological and political frameworks seek to change the culture and, thus, direct action on campuses. These two are connected as they project a normative motive and exist in areas where rifts between legislatures and institutions are more likely to occur. Examining the source of these policies and frameworks can provide an understanding of how the policy and influence came about.

Theoretically, legislatures are most concerned with assessment and accountability at higher institutions, but the Texas legislature has led the way in creating the three policy debates that are covered in this analysis, and it is directly responsible for the major question regarding campus carry law in Texas. (Gilley 1991) Examining the role and influences in Texas's case could provide a unique avenue of analysis and examination as a future case study. Power in policy is the ability to effect change in action based on the understandings and projected ramifications of a policy. The race to frame those understandings drives the debate and power struggles we see between institutions and legislatures through a sociology of transition. (Parsons 1997) Determining the impact of the Texas legislature on policy development and implementation is important as we move forward in this analysis. Public opinion guides policy, whether by creating congruence between the agendas of the public and legislature or aligning policy activity and public opinion for re-election purposes. While there is not a direct affect, policy decisions can be driven by public opinion, especially where the public interest is high. (Jones and Baumgartner 2004; Doyle 2007) Determining where these opinions fall on higher education policy is necessary, as the level of influence the public has in this area is not clear. Does the public pay attention? Is the issue sufficiently salient to generate attention and action? There is power in the community dynamic and among legislative actors based on the political ideology

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and issue-specific home-style<sup>1</sup> that exist regarding certain policy types. If these policy types exist in an area of higher education and prove to have a high enough level of public efficacy and involvement, this could lead the legislators to work for more power and influence. For this study, we focus on this theory by considering political ideologies as provocation for legislators to push a bill that usurps the administrative power of institutions. As those most directly affected by the bill, student and faculty public opinion was decidedly against SB 11. However, that the conservative legislature, decisively for concealed carry laws, chose to act independently is a significant point of emphasis in this analysis. This disconnect between public opinion and legislative action poses an administrative question concerning what populations carry the most political influence.

In Texas, these power dynamics follow the traditional view of planning, using the coordinating board model seen by many states. These boards direct the powers and decision-making opportunities regarding state higher education in the areas of tuition, budgeting, taxes, policy, and structure. (Gove and Floyd 1975; Zumeta 1992) Texas uses a non-centralized Board of Regents model that allows college systems to have a separate board of regents that directs their activity and represents the institutions. Currently, six systems operate in the state of Texas, with four institutions acting as independent public universities. These boards are inherently political due to the structure and role in issue networks<sup>2</sup> in the state of Texas.

Contributing to this political nature is the method of selection, which is through gubernatorial appointment and confirmation by the state Senate. Forming the Board of Regents through this process introduces politics into the higher education policy debate. The power and influence over higher education in a conservative state

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<sup>1</sup> Home-styles are action models used by legislators to guide their decision-making and actions while in office. One home-style is the service oriented path which involves bringing projects and resources back to a district. Issue oriented home-styles involve driving policy in specific directions.

<sup>2</sup> Issue networks are policy formulation entities that are loosely structured and define the actors that have the most influence on policy making and formulation.

such as Texas sets the stage for ideological conflict between state educational institutions and liberal administrations in the state's colleges and universities.

Interaction with private institutions is a by-product of this structure. States with non-centralized structures, such as Texas, are more likely to provide allowances to private institutions where the coordinating boards are seen to be regulatory in nature; such as Texas. (Zumeta 1992) States with regulatory coordinating boards traditionally take the path of action that is indirectly related to private or independent institutions. The Texas legislature has exhibited a reluctance to pass policy that provides directives to private institutions comes into play in this analysis where the exclusion of private institutions is considered regarding the campus carry law.

### **Analysis of higher education debate regarding affirmative action**

Theory encompassing the relationship between legislatures and higher education provides a context for examining the causal links between the influence of political ideology and administration. Before examining campus carry law and the reaction to it, a discussion of a landmark Texas higher education policy, affirmative action, will establish a theoretical grounding for the discussion. As this paper's focus is the effect of subversive or divergent ideology on higher education administration in Texas, using this example provides a needed historical understanding of the relationship between the legislature and institutions. While this case is not wholly the same as campus carry, it does provide needed analysis regarding administrative activity to move forward in this paper.

The affirmative action issue provides a similar political, social, and engagement factors and actions to those currently taking place within the campus carry debate. Many of these connections revolve around the differences in ideology between the public and legislature as well as the ideological issues that faced administrators in the implementation process. The case also mimics the shifts in participation and reaction regarding implementation and administration, and its focus from those that otherwise would not be highly concerned with the action. Evaluating these debates as well as the campus carry debate provides an examination of policymaking

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and the response to it that prompts action. That action could be coercive federalism tactics such as using budgetary influence and power to force action or the reaction, especially negative, that comes from these changes. Student activity and popular support get swept into this mix as their wants and desires are not met. (Scollay 1982)

Accepting students based on race, gender, and ethnicity is a battle that has existed nationwide but has hit the state of Texas. Laws that embolden a state's institution's ability to defer colorblindness for a system that sought to offer equal access and an opportunity to those outside the majority were upheld in 1978 in California. (*Regents of the University of California v. Bakke* 1978) The *Bakke* ruling, which outlawed a quota system, paved the way for public institutions to use demographic factors in admission policy, sparking a debate regarding the role of race and status in admission and inclusion policy regarding higher education. This policy is largely the result of preliminary work stemming from the 1960s by President John F. Kennedy and his predecessor Lyndon Johnson and folded into the Civil Rights Movement. (Linde 1966; Lipson 2009) Johnson was quick to act and pushed affirmative action where possible; and universities and colleges quickly followed suit.

#### *Background of Affirmative Action*

Before getting to the state of Texas, which is at the center of the debate, a review of the California case is necessary. *Bakke* allowed the state system to take what it considered progressive action as a political ideology and social acceptance have pushed the debate. While admission figures and access in the state of California rose among minority populations, the negative reaction resulting from limiting access to the popular and high-quality public-school system signified a perception that the decision was a poor choice. Opponents of the law sought to end affirmative action statewide, to encompass the university system, citing it restricting admission practices based on quality. Proponents of the law pointed to the inclusive nature of admission rates as proof the policy was successful and met its goal.<sup>3</sup> A coalition between the California Board of

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<sup>3</sup> For a more in-depth view of this see the inclusion of cases *Grutter v. Bollinger* and *Gratz v. Bollinger* later in this paper.



Regents and Governor in 1995 passed a policy to end affirmative action in admission policy starting in the fall of 1998. In 1996 the public sped up the process, passing Proposition 209 by popular referendum, and it was upheld in 2014, removing the admission practice from law. (Anderson 2014)

The move was met with strong opposition from the student body, faculty, and administrators. Despite the pushback from those most directly affected by the policy, the state's population, and legislature, under that public pressure, has resisted movements to reinstate the law. Viewing this public pressure in California provides an example of a law that is influenced by a public ideology that has a resulting effect on political decision-making despite divergent views from those at higher education institutions. Since the ban in 1996, the University of California-Berkeley has seen growth in their enrollment gap in both the Hispanic and African-American communities.<sup>4</sup> While the enrollment gap grew, admission practices did not show a similar progress. (Card and Krueger 2005) Minority students with quality applications and standardized test scores did not stop sending in applications, and among those considered to be "highly competitive" admissions rates were similar before and after the ban of affirmative action.

#### *Student Response to Affirmative Action*

Texas practiced affirmative action starting in the 1960s, which allowed institutions to use minority status and a non-colorblind process for admissions. In 1996 the process was challenged at the University of Texas. A group of law students led by Cheryl Hopwood sued the university's law school, contending they were denied admission preferences based on race for minorities with lower qualifications. The fifth circuit court ruled for Hopwood citing that it

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<sup>4</sup> The enrollment gap is calculated by the percentage of eligible college-aged students compared to its percent of that group enrolled. At UC-Berkeley, the gap is 38 points (49 percent to 11 percent today) which are up 14 points since 1990. That gap is seven points today for African-Americans versus two points in 1990. Source: <http://www.nytimes.com/interactive/2013/06/24/us/affirmative-action-bans.html>

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was unconstitutional to have such an admission practice and that the policy of the university was unconstitutional and that it could not use a race-based admission policy to uphold a search for diversity. (*Hopwood v. Texas* 1996) The ruling set a precedent to remove race and race-based affirmative action policy from the admissions process in Texas. Protests took place, especially on the University of Texas at Austin campus. Administrators, students, and faculty denounced the decision and cited the state's history of racial subjugation and lack of diversity in quality positions as being upheld. Despite the protest, the state acted to remove affirmative action from admission policy.

### *Administrative Response*

These decisions set the stage for a return of affirmative action policy in the state of Texas in 2005. Two universities use racial preference in admissions in Texas today, the University of Texas at Austin and Midwestern State University. Both cite policies that seek diversity without the use of quotas. Today the enrollment gap for the state of Texas is marginal. Thirty-four percent of the state's population is Hispanic, as is 33 percent of its student population, while the gap for African-Americans is 13.7 percent in college to 14.3 percent total population.<sup>5</sup>

While Texas' conservative point of view supported outlawing affirmative action, its reinstatement was approved by administrators, particularly at the University of Texas. The following statement by university president, Larry Faulkner, exhibits this:

It is especially vital that The University of Texas at Austin re-institute affirmative action right away in considering applicants for graduate and professional programs. The requirement in Texas law that any change in admissions policies must be posted one-year in advance is deeply disappointing because it will keep our state for yet another year in an uncompetitive position nationally for talented

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[https://web.archive.org/web/20161205034731/http://nces.ed.gov/programs/digest/d13/tables/dt13\\_306.60.asp](https://web.archive.org/web/20161205034731/http://nces.ed.gov/programs/digest/d13/tables/dt13_306.60.asp)

minority students. It is unnecessary and unwise for Texas to sustain this requirement in the immediate wake of the Supreme Court's decision, so I am prepared to work with the leadership of the State to find a way to relieve it, perhaps legislatively. (*UT News* 2003)

The context in which we view the decision made in California on affirmative action provides a unique outlook on this debate. Traditionally policy decision-making and implementation have been an inclusive or internal matter. Insulated legislators, or those with selective hearing based on their affinity for being a trustee or delegate, make policy through the debate. This model is outdated and has been replaced with the iron triangle and issue networks that involve external agents and actors. (Pusser 2012) What political pressures existed to provoke both the decision to enact affirmative action and in California repeal? Its passage was met with approval from the higher education establishment. It was a move towards inclusion and a push to broaden the scope of the public university and college systems. Political pressure and ideology pushed the program over the policy edge. (Peterson 1976)

#### *Impact of Affirmative Action*

The approach used to evaluate the case of affirmative action in California is based on methods that have given rise to serious questions. (Pusser 2012) There is a need to examine the effect of political influence from external actors within policy studies. This application is necessary when discussing higher education policy such as affirmative action as well as campus carry laws. The concept that policy formulation and selection happen in a vacuum is incorrect on the surface. Politically guided legislators, especially in Texas, are open to influence and act based on that influence when it is advantageous or necessary. The result is that advocacy and political groups gain importance in the process and their role is expanded. The approach here regarding affirmative action provides grounds to view the campus carry debate as an ideological debate as much as a policy debate.

On the surface, this is a debate between the rational-actor model of administration where external factors or morals do not encroach on policy and implementation due to the battle between the ethics and morals of a regime – agentic shift - and an individual. (Adams and Balfour 2014; Moe 1984; Rohr 1988) This model suggests that affirmative action is or was emboldened by administrators supporting it. This model opposes the agentic model based on the organization, where the organization's values and morals supersede that of the individual and administrators should remain neutral and defer to the structure if it is ethical in approach. (Thompson 1985) If a conflict of ethics occurs, the individual can dissent through internal and external protests, obstruction of policy, and covert obstruction. These traditional models are applicable, but a neo-institutional model provides an explanation of affirmative action. (Lipson 2009) According to this theory, institutions and administrators are not viewed as isolated. Instead, they are exposed to political and social pressure in both the implementation and policy formulation processes. This exposure leads to ambiguous rule-making, weak mandates, and implementation practices that are concerned with political acceptance instead of meeting the standards for quality administration.

### **Campus Carry in Texas**

Senate Bill 11 has similar facets and debates as the affirmative action policy in the state of Texas but shares more characteristics with the state of California. It is a policy that strikes back against much of the common conception regarding public opinion of those on campuses and is the product of public will and opinion. A survey conducted by YouGov<sup>6</sup> polled 1,200 respondents. According to survey responses, 37 percent disagreed with the campus carry law, while 51 percent agreed with some level of concealed carry rights on college

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<sup>6</sup> YouGov is a polling organization located in California, YouGov.com. Part of the methodology for this study was through panel surveys, which is a volunteer group of regular survey participation. This can alter or restrict the scope of the results cited in this analysis. <https://www.texastribune.org/2015/06/23/uttt-poll-discrimination-guns/>

campuses.<sup>7</sup> Data regarding public opinion on college campuses has filtered out since 2011. A 2015 study conducted at the University of Texas at San Antonio outlines several areas where students are against campus carry. Surveying 2,822 students, just nine percent of the students enrolled, 60 percent favored exclusion or safe zones in areas such as libraries, labs, and recreation centers. Minority students had a much higher rate of opposition to campus carry laws regarding a feeling of safety versus white students. It was the same stark contrast along gender lines as 49 percent of males reported guns should not be allowed in the classroom, with that number spiking to 74 percent for females.

A survey of students at Stephen F. Austin State University found similar results. (Eaves, Shoemaker, and Griego 2016) A correlation analysis on a series of questions regarding the comfort of students regarding individuals, faculty, and other students with guns revealed that women and minorities had stronger feelings of opposition. As expected, those who prioritized the Second Amendment and those who were Republican or Independent in their ideology were more likely to support campus carry laws. The strongest opposition from students was the thought of faculty carrying guns, as 73 percent felt some level of dislike of the ability. By contrast, student concealed carry participation was disliked at a rate of 47 percent. To put these feelings regarding campus carry into a national context, faculty across the nation are opposed to allowing concealed carry on campus. (Price et al. 2014) In a study of 401 college and university presidents, 95 percent were against guns on campus at some level, and 92 percent believed the law would make many of their students feel unsafe. Sixty-five percent of those surveyed felt campus carry laws were unnecessary or were against them. Over 80 percent of the administrators felt that those carrying a weapon on campus should be trained and show continued proficiency to be able to keep exercising their rights. Similar data to those reported in the previous paragraph is not readily available for the University of Texas at Austin, especially not in a format that lends to quantitative analysis. In its absence, the reactions of students at the University of Texas at Austin will be examined to provide

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<sup>7</sup> Twelve percent reported no opinion or did not know.

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evidence of administrative activity that exhibits an ideological difference with the legislature.

The largest and most popular voice of dissension regarding SB 11 came from the liberal flagship university. From the chancellor of the system to the president of the university, faculty and student organizations spoke out against the passage of the bill. Citing fundamental and ethical issues that could be ignited by having weapons on campuses, the general feeling was that it was misplaced and ignored the general sentiment of those on the campus that would be most affected by the law.

#### *Student response*

Student outcry came in the form of protest and petitions. The “Cocks not Glockes” movement started soon after the passage and has been the flagship approach. (Samuels 2016) Students sought to show their dissonance and the lack of rationale by carrying around sex toys, which is against the institution’s code of conduct and laws of public decency. The exhibition was an attempt to show discontent by how a prop the participants consider non-threatening can cause a stir and analogize that impact to affect the presence of guns could have on campus. Per multiple media outlets a protest in August 2016, the month that SB 11 went into practice, included the handing out of an estimated 4,000 sex toys to students protesting the law. An opposition group, Texas Students for Concealed Carry, emerged to oppose protests and support the bill. Using more traditional means, the student group sought an audience with the state legislature as well as campus administrators to argue for the protection of their Second Amendment rights on campus. The activity among the groups and on the campus made it the focal point for student debate regarding the law, which shows the divisive political and social acceptance of the mandate.

#### *Faculty response*

The faculty is required to allow those with a license to carry to exercise their Second Amendment rights with caveats. Three UT professors took the state to court citing that the law was "overly solicitous" and encroached on their rights under the First, Second,

and Fourteenth Amendments. (Grubbs 2016) Their claims were that forcing professors who were unwilling and unsure of the safety of having to allow firearms in class would inhibit academic freedom and students' freedom of speech due to the avoidance of offering an opinion without the fear of reprisal or violence. Also included was that the university's policies did not provide adequate protection for those on campus. The suit petitioned for a federal injunction that would allow classrooms to be deemed a "safe zone"<sup>8</sup>. However, the court did not find in their favor as a federal district judge ruled the lawsuit failed to establish a likelihood of success. (Walters 2016) The state of Texas' Attorney General Ken Paxton was joined in the defense of the law by UT-Austin itself, which cited that the allowance of firearms under the law in classrooms did not violate First Amendment rights, nor was a defined case made that it would be to the detriment of student learning and discussion.<sup>9</sup>

#### *Administrator response*

Administrators also decried that the law was an affront to the academic process; however, they have worked to comply with the legislation. University president Greg Fenves, a former president of UC-Berkeley, spoke out vigorously against the law during its deliberation in the legislature and after its passage stating his personal belief was that guns had no place on campus and in an academic environment. As with many administrators, his and his employees' hands were tied regarding implementation. Fenves, one of 340 university and college presidents to sign a national petition against campus carry laws, commissioned a working group to follow guidelines to develop campus-based policies that would attempt to walk the line between upholding his administrative responsibilities and preserving the institution's academic environment. Fenves has

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<sup>8</sup> SB 11 allows for universities to designate an area a safe zone where there is reasonable justification that a firearm should not be. A place that is solely or mostly used by minors or the mentally or physically ill can be deemed a safe zone, and the ability to carry a concealed handgun can be restricted under those conditions.

<sup>9</sup> The institution's part in the state's defense in the lawsuit will be addressed further later in this paper.

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remained an opponent of the bill but was quick to note that the campus would not work against or violate state law. As a public institution, the University is required to implement the law as written. Taking this stance led to issues created between the administration and faculty, including the lawsuit mentioned in the previous section, and angry and ideologically opposed students.

#### *Implementation of SB 11 on the UT-Austin campus*

August 1, 2016, marked the first day that the legislation went into effect on campus; the institution's work to refine and implement the law started in 2015. Fenves took several steps to ensure that the university complied with the law but exercised the university's rights under it to manage weapons on campus. It allows for university administrators to make rules in two main areas:

1. Storage of Handguns – University or campus administration can pass laws regarding the storage handguns in dorms or residential facilities that are owned or leased by the institution and located on campus.
2. Carrying a handgun in specific places – For safety concerns, the university or campus administration can pass rules that govern where the handgun is carried on campus. Rules are justified by rationality and cannot strip or inhibit the premise of the law.

The following steps were taken on campus and by administrators. As part of their administrative power granted in SB 11, these steps were designed to uphold the academic values while allowing those that have obtained a license to carry a concealed handgun on campuses. According to SB 11, rules made by the university must be made by the president of the university and only after consulting with students, faculty, and administrators. After these steps have been taken, the rules regarding the implementation of the law must be reported to the legislature no later than 90 days after passage and then by August 1 of every year following. Allowing universities the ability to operate and administer rules regarding the law has emboldened the administration and given college presidents like



Fenves the ability to make bureaucratic law; this power is the focus of this study.

UT-Austin first responded by creating a 34-member working group<sup>10</sup> to meet the standards of campus interaction set by the law and suggest bureaucratic rules. Per the report<sup>11</sup> only one percent of the student population was expected to have a license to carry (LTC) and less than 4.5 percent of administrators and faculty. This group used approaches to engage students, faculty, and groups interested in the law.

1. They conducted an online survey gauging public opinion of those on campus that was open to students, faculty, and staff. The online survey garnered 3,300 responses.<sup>12</sup>
2. Two public forums were held to educate, engage, and take suggestions regarding what rules should be made within the university to govern the safety and storage concerns. During the forums, 400 people total attended and the second forum is reported to have accrued nearly 32,000 views for its live stream.
3. A survey of all deans, directors of on-and off-campus programs was conducted.
4. Meetings with groups and individuals were held to offer open discussions with the full group or individuals within the group.
5. Finally, written comments were accepted from the student and faculty regarding the law.

These interactions are characterized in the reports as not being intended for statistical or quantitative analysis. Instead there was a normative assessment performed, and the following themes were outlined in the report:

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<sup>10</sup> A full list of the group can be found here; <http://campuscarry.utexas.edu/task-force>. The group was made up of high-level administrators and two faculty representatives.

<sup>11</sup> The full report can be found here; <https://utexas.app.box.com/v/cc-implementation-report>

<sup>12</sup> There was no demographic breakdown of the respondents nor is the data set available.

1. Opposition was based on fear about campus violence, including an increase in hate – particularly noted was acts against those in the LGBTQ community and international students- and sexual assault crimes.
2. The concern of handguns in areas where minors had the predominant use of the physical space.
3. Mental health, involving disorders and immaturity, were issues or concerns expressed particularly in campus suicides.
4. Anxiety over decision-making and mass shootings were also a common theme.
5. Faculty concerned were reported to be centered on the ability to carry out academic freedom and continue to have contentious discussions within a safe setting.

Themes for those supporting the law were in the following categories:

1. The desire to defend yourself in a time of crisis. Active shooter situations were cited as a case where concealed handguns are needed specifically.
2. Protection from on-campus violence regarding sexual assault, robbery, and violent crimes.
3. Protection of the Second Amendment rights on public land. Of note was that universities are public lands and must be treated consistently.
4. Spoke out against gun-free zones citing issues with storage and inconsistent implementation of the law.

These discussions led to 25 recommendations grouped in four areas: how guns will be carried and stored; restricted areas for carrying; incidental implementation measures; and proactive measures.<sup>13</sup>

Carrying and storage laws follow the guidelines of the LTC program in Texas that a weapon must always be concealed, the holster must be on the physical person or in the bag, and that the trigger must be covered. Included is the decision that a semi-automatic weapon cannot be carried with a round in the chamber to

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<sup>13</sup> The full list of recommendations can be found here; <https://utexas.app.box.com/v/ccworkinggroup-finalreport>

prevent accidental discharges but can be loaded. Regarding safe zones, anywhere on campus that is predominantly used or being used by students who are K-12 is prohibited. Also, on the prohibited spaces list are any time the university or its facilities are used as a polling place; dorms or residence halls with exceptions<sup>14</sup>; the stadium; business with more than 50 percent of sales from alcohol; mental, medical, or animal health facilities on campus; any place with a student hearing or faculty dismissal; and labs with hazardous materials. Faculty offices are addressed by allowing professors and instructors to prohibit weapons but only by verbal notice in every incident. A posted sign does not preclude the carrying of a licensed handgun in the office. The last recommendation of note is to provide more training regarding safety and mental health at the cost of the university to ensure that mental well-being is maintained and laws are followed on campus. Classrooms were excluded from this list as there is no reasonable data or implied danger from someone following the law within the class. These rules have been put into place by the administration and have had subsequent punishment mandated by the legislature.

### **Analysis**

A survey of statistics, implementation analysis, and a review of landmark cases included in this study to determine the impact of political ideology and policy decision-making on the relationship between legislatures and higher education administration. At the outset of this analysis questions regarding the impact of political ideology on policy-making processes, the effect of SB 11 on the relationship between these two entities, and the overall impact of these factors on the implementation process at the campus level as goals. Two major conclusions arise. Political ideology has an impact on broad policy-making in higher education that adds a conflictual variable to that relationship. Using the difference in public opinion

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<sup>14</sup> Exceptions are in common areas, for a family member, and staff. If you are required to live in a dorm or residence, you must store your weapon when needed.

between faculty and students and the public and a comparative analysis between affirmative action and campus carry legislation can confirm this issue in the context of neo-institutionalism. Also, an analysis of the implementation plan undertaken by the University of Texas at Austin exhibits an approach to legislation that shows signs of disconnect between legislators and higher education administrators. The ramifications of these causal links are discussed below.

*Comparing affirmative action to campus carry within a neo-institutional and power-in-community approach*

Viewing power dynamics in this study involves three specific theories presented by Pusser (2012), Lipson (2009), and Parsons (1997) that go beyond the traditional approaches of policy analysis. Parsons (1997) points to the community as the source of power in policy decision-making. Seeking outside influence from social actors and activists has a significant impact on policy decisions. Along similar lines, Pusser (2012) defines the policy process as being one influenced by neo-institutional groups and actors that form influence coalitions. Introducing these neo-institutions into the policy-making process adds a dynamic that broadens the scope of policy beyond the collective action principle that mandates groups act in concert with the public good and introduces political ideology into the policy realm.

Examining the track of affirmative action in Texas, historically, political ideology can clearly have a negative impact on the ability of administrators to effectively carry out higher education policy. Texas, after the action taken in California, took firm stances behind the process of allowing race and minority status to factor into admission policy to meet a diversity demand. Both states saw a rise in that area to meet the diversity mandate. Despite the programmatic success, California ousted the policy completely after a Supreme Court precedent was set and Texas soon followed. In Texas, this move was provoked by state legislators that were guided by neo-institutions or outside influences which created political power to force their way into issue networks and iron triangles regarding the policies. The decision was made against the will of those on campuses and strong opposition from administrative leaders from the

institutions. Texas has since reinstated the policy as a voluntary program, but the power-in-community model was exhibited in the cancellation and alteration of the program.

Analyzing these policies and their track through the policy framework shows that public opinion of the community at large outweighs policy advice and opinion from those most affected by the policy. Applying this theory to SB 11 provides evidence and understanding for the actions of the legislature to avoid conflict with the community to the detriment of institutional public opinion and value. Evaluating the process to pass campus carry legislation in Texas, student and the faculty-led opposition was set aside for political activism from the collective state that supported an entrenched ideology. These political influences provide a preliminary example of two entities at odds with each other in the context of what the major influence on policy is and a disconnect between ideologies. The comparative analysis provides basic evidence that political ideology can usurp the collective action principle in the policy-making process.

*Implementation at UT-Austin: is it rational and what are the ramifications?*

Campus carry, or guns on campus, is an ethical issue and one of safety for many on campus. Viewing the statements from Fenes outlined in this study and the approach that the working group took, there is a significant level of ethics involved in this legislation and its implementation. There is a battle for the university president regarding following the law and implementing and upholding the ethical standard and obligation he feels to the student body, faculty, and staff.

UT-Austin used two of the dissent markers that are outlined above in the review of the response by administrators in this analysis. Operating under the rational-actor and agentic models, Fenes showed he would uphold and implement the legislation. Part of that understands his role as an administrator and the position of the university as a subsidiary of the state of Texas. Engaging with the students and faculty regarding rule-making is evidence of this move to follow the guidance and premise of the legislation. Part of this recognition is the suppression of ideology and willingness to work within the fabric of the legislation. Fenes exhibits this approach in

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his public comments and his creating the working group to operate within the law. Furthermore, the move by Fenves and the university to join the state of Texas in the legal defense of the law in a suit brought by three UT-Austin faculty provides more support. Implementing policy despite ethical objection is a hallmark of administrative theory. Fenves and the University fall in line with the theoretical approach to the agentic shift and rational-actor models by prioritizing their position as administrator/organization of the state over ethical and ideological diversion and disagreement.

While Fenves and the university follow the model as subordinates of the state, the university also takes license with the rule-making power they have been given. Agencies of the government use rule-making power to streamline implementation but can also adjust expectation as the actor in the agentic model. This power is granted to the university president within SB 11. While they do not fight back against or refuse to implement the policy, the working group and subsequent recommendations employ a dissension strategy that attempts to alter the impact of the policy within its rules. Thompson's (1985) dissent through internal protest and covert obstruction are of note here. The willingness to speak out against, both in public statements and with messages to the legislature, is a clear example of internal protest from the administration. Speaking out against guns on campus provides a sounding board and grounds to continually approach the ideological and policy debate involved in the issue while not compromising the implementation and administrative mandate placed on the university. Pushing the limits of exclusion or safe zones to extend to dorms, health facilities, and faculty offices is an example of covert obstruction. By expanding the scope and number of exclusion or safe zones on the UT-Austin campus, the administration, behind Fenves' lead, is attempting to curtail the effect of the law's implementation on those on campus without deviating from the scope and intent of the law. Also included in this approach is the rule against carrying a semi-automatic weapon with a round in the chamber and employing the protection of minors (K-12 students) as reasoning to limit the carrying and access to weapons that threaten a mandate of safety the working group believes the legislation is encroaching on.

The line between these two effects is seemingly thin and could be challenged through the university's appeal process and in

the court system. Using the public engagement mandated within the legislation, the university's working group has provided justification for this covert obstruction of the policy that has clear intent to reduce the impact of the policy and may have long-term negative impacts on the overall policy itself.

### **Conclusion**

This examination of the campus carry law in Texas provides a focused view of the relationship between the legislature and administrators at higher education institutions. This legislation is controversial and unpopular among those most affected by it and is an example of a law that contradicts traditional public opinion and policy decision-making theory. This analysis has provided a comparative and public opinion view of that relationship and the effects it has had on policy implementation using the University of Texas as a preliminary case study in reaction and scope of the policy on implementation and factors facing universities in the state.

Findings showed that universities would face a choice of how to proceed with implementing the law while balancing it with student and faculty public opinion. The legislation itself represents an opportunity to evaluate the role of political ideology and how that shapes the relationship between decision-makers in the legislature and administration at institutions. This relationship is choppy at best, and the lines of discontent and disagreement have been brought to the forefront with SB 11. This compared to the reaction and policy decisions regarding affirmative action are consistent and show a difference in approach and expectation between the administrative branch of higher education and policy-makers. Actions taken by the University of Texas at Austin supports traditional theories regarding ethics and the counteraction to systemic decisions that challenge sub-organizations and individuals. In this case, the university, namely its president, is a good case study in the administrative application of the rational-actor and agentic models while attempting to challenge the law.

Future analysis will go in two directions. An expanded view of implementation of higher education policy and discussion of its impacts is needed beyond the subnational level. The University of Texas at Austin was selected because of its history with moral/ethical

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issues and challenges to the state legislature – outlined in the review of affirmative action in Texas. Studying the practices and decisions by the university provides a view of implementation challenging a system that is guided by extreme political ideology. Expanding this study nationally with an expansion of the administrative ethics involved is a natural next step, as is an attempt to incorporate universities within the state of Texas that have collectively different ideologies, such as Texas A&M University or Amberton College – both of which are considered conservative in administrative practices. Analyzing these differing approaches and ideology connections would offer a divergent viewpoint into how the implementation planning and impact of those decisions affect not only the relationship between the administration and the policy-makers but the student and faculty groups on their campuses as well. A comparative analysis of these categories of universities in Texas or the nation will expand the scope of this study and provide better definition to the implementation questions.

An original survey of political ideology and opinion on SB 11 regarding the decisions made by the campus leadership is needed. An original survey is needed to gauge the veracity of their claims and worries regarding the effect of SB 11 on campuses in the areas of safety and mental well-being. Also, the relationship effect between administrators and the student and faculty populations on campus warrants study. As alluded to in this paper there is tension between the two entities regarding tactics and willingness to stand on conviction and ethics. Studying the effect through the context of trust levels and how they are impacted warrants future evaluation. This study shows evidence that political ideology and the influence of outside groups or actors influence the policy-making process and have the potential to have a negative impact on implementation when those ideologies clash with counterparts in campus administration.



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