

Regents of UC v. Bakke / The Michigan Affirmative Action Cases—Answer Key

Directions:

1. Read the **synopses** of *Gratz v. Bollinger* and *Grutter v. Bollinger* below.
 2. Complete the first part of the **graphic organizer** (page 3).
 3. With your class, review the **decision** in *Regents of the University of California v. Bakke* (page 4). Based on that information, make a prediction about the Court's decision in *Gratz* and *Grutter*. How did you arrive at that prediction? Share your prediction and your rationale with a partner.
 4. Your teacher will give you a handout on the outcome of the cases called **“The Two Cases Decided.”** Read it and record that information on the **graphic organizer** (page 3).
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Synopses

Gratz v. Bollinger

Jennifer Gratz, a White student and a resident of Michigan, applied to the University of Michigan as a high school senior in 1995. Her standardized test score on the ACT (25) placed her in the top quarter of applicants, and she had a GPA of 3.8. In addition, Gratz participated in student council and various other extra-curricular activities. Nevertheless, the university denied Gratz admission. The University of Michigan's admissions guidelines in effect in 1995 called for the acceptance of all underrepresented “minority” applicants with academic credentials similar to Gratz's. Both parties agree that Gratz would have been admitted to the university had she been a member of an underrepresented group, like a racial or ethnic minority.

From 1995 through 1997, the university admissions officers used guideline tables or grids that reflected a combination of an applicant's adjusted high school GPA and ACT or SAT score. To promote diversity, the university utilized different grids and admissions criteria for applicants who were members of preferred underrepresented groups as compared to other candidates. Michigan also set aside a prescribed number of seats in the entering class for students from those underrepresented groups in order to meet its numerical target.

In 1998, the university dropped its admissions grid system and replaced it with a 150-point “selection index.” Admissions officers assigned applicants points based on various factors, including test scores, “legacy” status, geographic origin, athletic ability, socioeconomic level, and

race/ethnicity. The more points an applicant accumulated, the higher the chance of admission. Applicants from underrepresented racial and ethnic groups (African Americans, Latinos, and Native Americans) were assigned 20 points. Scholarship athletes and students who were economically disadvantaged also receive an automatic 20-point bonus. Geographic origin could earn six points, the child of an alumnus four points, and an “outstanding” admissions essay three points.

Gratz, and another unsuccessful White applicant, Patrick Hamacher, brought suit challenging the legality of the University of Michigan’s admissions policy. The federal District Court ruled that the school’s undergraduate admissions policy in place before 1998, which maintained a set-aside for racial and ethnic minorities, violated the 14th Amendment, but the court upheld the current points system, which did not use quotas and utilized race and ethnicity as a “plus.”

Grutter v. Bollinger

In 1997, Barbara Grutter, a resident of Michigan, applied for admission to the University of Michigan Law School. Grutter, who is White, had a 3.8 undergraduate GPA and scored 161 on the LSAT. She was denied admission and subsequently filed suit, claiming that her rights to equal protection under the 14th Amendment had been violated.

At the time, the law school had an admissions policy that used diversity as a factor in the admissions process. In selecting students, the law school considered the applicant’s academic ability (which included undergraduate GPA), LSAT scores, personal statement, and letters of recommendation. The school also considered factors such as the applicant’s experience, the quality of the undergraduate institution they attended, and the degree to which the applicant would contribute to law school life and the diversity of the community. The admissions policy did not define the types of diversity that would receive special consideration but did make reference to the inclusion of African American, Latino, and Native American students who might otherwise be underrepresented.

The school thought this policy complied with *Bakke*, on the grounds that it served a “compelling interest in achieving diversity among its student body.” The District Court ruled that the goal of achieving a diverse student body was not a compelling one. The Court of Appeals then reversed the District Court’s decision, saying that Justice Powell’s opinion in *Regents of the University of California v. Bakke* constituted a binding precedent establishing diversity as a compelling governmental interest sufficient under strict scrutiny review to justify the use of racial preferences in admissions. Furthermore, the attempt to enroll a “critical mass” of minorities was not comparable to a quota system.

Graphic Organizer

	<i>Gratz v. Bollinger</i>	<i>Grutter v. Bollinger</i>
Basic facts about the applicant	White; Michigan resident; ACT score - 25; 3.8 GPA; student council and other extracurricular activities	White; Michigan resident; 161 LSAT; 3.8 GPA
Undergraduate or graduate?	Undergraduate	Graduate - Law School
Summary of selection Process	1995-1997: combination of GPA and ACT/SAT score; different criteria for applicants from preferred minority groups; specific number of seats reserved for minorities 1998: 150-point "selection index" with points based on various factors; additional points for applicants from "underrepresented" racial and ethnic groups	Individual assessment of each candidate; race one factor among many including undergraduate GPA, LSAT scores, experience, undergraduate institution, and potential contribution to diversity of community; special consideration for underrepresented minorities to achieve a "critical mass"
Constitutional question	Does an undergraduate admission policy that assigns a certain number of points based on race in order to promote diversity violate the Equal Protection Clause of the 14th Amendment?	Does the law school's use of race as a factor to promote diversity in student admissions violate the Equal Protection Clause of the 14th Amendment?
Your prediction: Is it Constitutional?	Answers will vary.	Answers will vary.
Actual outcome at the Supreme Court	In a 6–3 decision, Michigan's undergraduate admissions policy was found unconstitutional.	In a 5–4 decision, the Court found that Michigan's law school admissions policy did not violate Barbara Grutter's rights.

Summary of the Decision

Regents of the University of California v. Bakke

Five members of the Court voted to require the University of California, Davis (UC Davis) to admit Bakke to its medical school. Justice Powell wrote an opinion in two parts, each of which received the votes of four other justices. The Court determined that any racial quota system in a state-supported university violated both the Civil Rights Act of 1964 and the Equal Protection clause of the 14th Amendment. Justices Burger, Stewart, Rehnquist, and Stevens joined this part of Powell's opinion. The Court also ruled that the use of race as one of several criteria in admissions decisions did not violate either the Civil Rights Act or the 14th Amendment. Justices Brennan, Marshall, Blackmun, and White joined this part of Powell's opinion.

In the first part of the opinion, Justice Powell reasoned that admissions programs that rely on a quota system, in which a specified percentage of spaces in the class is reserved for a particular racial or ethnic group, were always unconstitutional, regardless of the justifications offered for them. Because a certain number of seats were reserved for applicants of a particular racial group, applicants not within that group could not compete for those seats, no matter how qualified they were. Justice Powell declared that “preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids.” The specific admissions system used by the University of California was determined to be unconstitutional because it used racial quotas.

Justice Powell further concluded that even though admissions systems relying solely on racial quotas violate the Constitution, the Constitution does not prohibit any consideration of race in admissions decisions. He acknowledged that a state may have legitimate interests in considering the race of an applicant during the admissions process. These interests included increasing the racial diversity of the student body to increase the proportion of people of color in medical schools and in medical professions, to “counter the effects of societal discrimination,” to “increase the number of physicians who will practice in communities currently underserved,” and to “obtain the educational benefits that flow from an ethnically diverse student body.”

In order to use race as an element in making admissions decisions, a state university must be able to justify the use under the standard of strict scrutiny. This means that admissions programs that consider race must be narrowly tailored to advance a compelling government interest in order to be constitutional.

The Court found that the University of California's admissions policy was not narrowly tailored to a compelling government interest. Basing admissions decisions solely on race, as in UC Davis' quota system, was not an effective way of furthering their interest in a diverse student body. The majority opinion said “the diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single ... element.” Other elements include “exceptional personal talents, unique work or service

experience, leadership potential, maturity, demonstrated compassion, [and] a history of overcoming disadvantage,” among others. Race can only be considered a “plus factor” in a particular applicant’s file, along with these other factors. Only then would an admissions program be deemed narrowly tailored to the compelling state interest of achieving diversity in the admitted class.

Because UC Davis’ admissions program relied solely on racial quotas, a majority of the Court ruled that it violated both the Civil Rights Act of 1964 and the Equal Protection Clause of the 14th Amendment. A majority of the Court also agreed, however, that race could be considered in admissions decisions, but only as a “plus factor” among other factors, rather than as the determinative element. The Court thus ruled that Bakke must be admitted to medical school at UC Davis.