Handout B: Case Backgrounds

***Regents of the University of California v. Bakke* (1978)**

The phrase "affirmative action" first appeared in a 1961 executive order by President John F. Kennedy, barring federal contractors from discriminating on the basis of race, creed, color, or national origin. President Lyndon B. Johnson echoed this phrasing in his own policies and speeches. Congress later passed the Civil Rights Act of 1964, barring discrimination by any institutions receiving federal money.

The University of California at Davis Medical School, a public school, was founded in 1966. The first class of fifty students was made up of forty-seven white students and three of Asian descent. In order to achieve a more racially diverse student body, in 1970 the University took what it described as affirmative action by creating two separate admissions programs. The general program required a 2.5 GPA, an interview, letters of recommendation, and test scores. The special program, for which only disadvantaged members of minority groups were eligible, had no GPA cutoff.

By 1973, the class size had doubled to 100, and of those 100 spaces, sixteen were reserved for minority applicants in the special program. Applicants to the special program competed only against each other for admission, and did not compete against applicants to the general admissions program.

Allan Bakke, a Caucasian, applied twice to the medical school, and was rejected both times. His GPA and test scores, however, were higher than those of any of the students accepted into the special program. He sued the school, charging that the special admissions program amounted to a quota system that discriminated against whites.

***Grutter v. Bollinger* and *Gratz v. Bollinger* (2003)**

In *Regents of the University of California v. Bakke* (1978), the Supreme Court handed down a fractured ruling on affirmative action in public universities. The plurality decision found UC-Davis's special admissions program to be a quota that was not consistent with the Equal Protection Clause of the Fourteenth Amendment. Twenty-five years later, two affirmative action cases originating at the University of Michigan reached the Court. Both cases concerned Caucasian applicants who believed they had been unfairly denied admission because of the university's admissions policies. In *Grutter v. Bollinger* (2003), the Court examined the university's Law School program, which sought to admit a "critical mass" of minority students. The second case, *Gratz v. Bollinger*, concerned the admissions policy of the University's Literature, Science and Arts School (LSA). This admissions program automatically awarded 20 points out of the 100 necessary for acceptance to members of minority groups. The legal reasoning for affirmative action in the two Michigan cases was partially different from the reasoning in *Bakke*. Affirmative action began as a way of compensating groups for unjust discrimination they had suffered. By 2003, the University of Michigan based its reasoning on promoting diversity.

In *Grutter v. Bollinger* and *Gratz v. Bollinger*, the Court had a chance to clarify its ruling in Bakke and determine the extent to which public universities could constitutionally consider race as a factor in admissions.