



## Civics Essay Contest 2023:

### Should race be a factor in college admissions?

The Supreme Court is considering this question in two cases argued in October 2022. The cases are *Students for Fair Admissions v. Univ. of NC* and *Students for Fair Admission v. Harvard College*.

This is not the first time this issue has come before the Supreme Court. Two prior landmark cases – *Regents of Univ. of California v. Bakke*, 438 U.S. 265 (1978) and *Grutter v. Bollinger*, 539 U.S. 306 (2003) – upheld affirmative action in college applications, but the opinion in *Grutter* seemed to hint that it might not be upheld in the future.

The U.S. District Court for the Eastern District of Tennessee, Chattanooga Division, and the Chattanooga Chapter of the Federal Bar Association invite local middle school and high school students to share their thoughts on this issue in the 5<sup>th</sup> Annual Civics Essay Contest.

Students from 6<sup>th</sup> to 12<sup>th</sup> grade are invited to participate in the local competition and the FBA's national competition. The same essays may be submitted separately to both competitions. Three high school winners and three middle school winners will receive the following prizes in the local competition:

First Place: \$500

Second Place: \$250

Third Place: \$100

Submission deadline: **March 22, 2023**



## What do you think?

- Are there race-neutral factors universities could consider in applications to ensure a diverse student body?
- Should characteristics such as socioeconomic background, first in the family to go to college, race, ethnicity, gender, or family legacy be weighed in admissions?
- Does the 14<sup>th</sup> Amendment’s “Equal Protection Clause” – which says that no state may “deny to any person within its jurisdiction the equal protection of the laws”– allow affirmative action in higher education application deliberations?

College admissions programs that consider race as a factor in admissions are subject to the strict scrutiny standard. Some of the questions to consider in a strict scrutiny analysis of this case are 1) whether colleges have a compelling interest in a diverse student body and 2) whether considering other factors could accomplish the same thing.

Students are invited to consider the question: “Should an applicant’s race continue to be a factor in evaluating their college admissions application?”

## Essay Requirements:

Your essay should:

1. State your proposed rule;
2. Present your best arguments in support of the rule;
3. Discuss how the strict scrutiny standard applies;
4. Cite relevant sources, statutes, cases, and/or historical events that support your position; and
5. Be no more than 1,000 words if you are a high school student and no more than 500 words if you are a middle school student.

Please submit your essay to [chattcivicsessay@gmail.com](mailto:chattcivicsessay@gmail.com). Include the cover sheet attached to this flyer or put that information in the body of your email.

You may also mail your essay and cover sheet to Civics Essay Contest, Attn: Kelly L. Walsh, U.S. Courthouse, 900 Georgia Avenue, Chattanooga, TN 37402.

Essays must be emailed or postmarked by **March 22, 2023**.

## Get Started:

Below are some historical milestones to get you thinking, and summaries of two of the Supreme Court's biggest decisions on the issue.

### *Historical Milestones*

**1961** – President John F. Kennedy's Executive Order (E.O.) 10925 used affirmative action for the first time.

**1964** – Civil Rights Act of 1964 signed into law.

**1978** – The U.S. Supreme Court in *Regents of the University of California v. Bakke*, 438 U.S. 912 (1978) upheld the use of race as one factor in choosing among qualified applicants for admission.

**1995** – The Regents of the University of California voted to end University of California affirmative action programs.

**1996** – In *Texas v. Hopwood*, 518 U.S. 1033 (1996), the Fifth Circuit ruled that a University of Texas policy of considering race in the admissions process was a violation of the Constitution's equal-protection guarantee.

**1998** – Ban on use of affirmative action in admissions at the University of California went into effect resulting in a 61% drop in Berkeley admissions of African-American, Latino, and Native American students.

**2002** – In *Grutter v. Bollinger*, the Sixth Circuit upheld as constitutional the use of race as one of many factors in making admissions decisions at the University of Michigan's Law School.

**2003** – The Supreme Court upheld *Grutter v. Bollinger* because the program furthered a compelling interest in obtaining "an educational benefit that flows from student body diversity" and provided for a "holistic" review of each applicant.

**2003** – In *Gratz v. Bollinger*, the Supreme Court rejected as unconstitutional the undergraduate admissions program at the University of Michigan's College of Literature, Science, and the Arts because points granted based on race and ethnicity did not provide for a review of each applicant's entire file.

### *Landmark Cases*

Two of the most significant cases on this issue are in *Regents of the University of California v. Bakke*, 438 U.S. 912 (1978) and *Grutter v. Bollinger*, 539 U.S. 306 (2003).

*Regents of the University of California v. Bakke* was decided in 1978 and upheld the use of race as one factor in choosing among qualified applicants for admission. The decision is what lawyers call a “plurality opinion.” This means that multiple Justices wrote an opinion but no single opinion received a majority of votes. The “plurality opinion” is the opinion that received the most votes.

In the *Bakke* plurality opinion, the Supreme Court split the baby: it found that the petitioner should be admitted, but also found that while racial “quotas” are unconstitutional, the school has a compelling interest in a diverse student body. Because of that interest, race could be one of the many factors schools consider in admissions. The school in *Bakke* had reserved 16 of 100 admission slots for minority race applicants, and these applicants were not ranked against other the applicants. So it is likely that this really was a “quota” based on race. Yet the Supreme Court still allowed the school to consider race, but as one factor of many. Justice Powell’s opinion that schools have a compelling interest in a diverse student body was used in subsequent cases like *Grutter*.

*Grutter v. Bollinger* was decided in 2003 and the majority opinion was authored by Justice O’Connor. It upheld consideration of race as part of a holistic approach to college admissions. The Court reasoned that the school’s program furthered a “compelling interest” in obtaining “an educational benefit that flows from student body diversity” and provided for a “holistic” review of each applicant.

The interesting part of the opinion is the following statement: “The Court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.” What do you think the Supreme Court meant by this statement? Perhaps the Justices granted cert in the *Students for Fair Admissions* case to revisit whether consideration of race is still necessary to further student body diversity?

## Local and National Contest Details

The local contest is open to public, private, and home school students in grades 6 to 12 from Bedford, Bledsoe, Bradley, Coffee, Franklin, Grundy, Hamilton, Lincoln, McMinn, Marion, Meigs, Moore, Polk, Rhea, Sequatchie, Warren, and Van Buren Counties.

This year’s prompt & materials are from the FBA’s national contest. For more information and to enter the national contest, go to <https://www.fedbar.org/about-us/outreach/civics-essay-contest/>. The deadline for the national contest is also **March 22, 2023**.

Please note that the local and national contests are separate. You may enter both, but you must enter each separately.

**Federal Court Civics Essay Contest  
2023 Submission Form**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

School: \_\_\_\_\_

Grade Level: \_\_\_\_\_

By signing this form, I certify that the essay I am submitting is my own original work; that I have followed all applicable copyright laws and fair use practices; that I am a public, private, or home school student from Bedford, Bledsoe, Bradley, Coffee, Franklin, Grundy, Hamilton, Lincoln, McMinn, Marion, Meigs, Moore, Polk, Rhea, Sequatchie, Warren, or Van Buren County; and that the contest sponsors (the District Court for the Eastern District of Tennessee – Chattanooga Division and the Chattanooga Chapter of the Federal Bar Association) may publish all or excerpts of my essay on their websites and in other print publications, with appropriate credit to me as the author.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_