

STUDENT ASSIGNMENT CASES

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STUDENT & STAFF ASSIGNMENT CASES
UNITED STATES SUPREME COURT

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Pasadena City Bd. Of Educ. v. Spangler (1976)	Intra-district desegregation plan	Action brought to limit court's ability to force changes in school district to remedy problems beyond the district's control.	N/A	Court affirmed 9 th Circuit ruling that court does not have remedial authority to require annual readjustment of school attendance zones to counteract changes in racial makeup of the schools resulting from housing patterns that are beyond the responsibility of the schools.	N/A
Swann v. CMS (1971)	Intra-district desegregation plan	Action brought to bar school district from maintaining segregated school system.	N/A	<p>Holding: The constitutional command to desegregate schools does not mean that every school in the community must always reflect the racial composition of the system as a whole; here the District Court's very limited use of the racial ratio - not as an inflexible requirement, but as a starting point in shaping a remedy - was within its equitable discretion..</p> <p>"An optional majority-to-minority transfer provision has long been recognized as a useful part of a desegregation plan, and to be effective such arrangement must provide the transferring student free transportation and available space in the school to which he desires to move."</p> <p>Federal court is not empowered to set educational policy absent a finding of Constitutional violation by the school district.</p>	

FEDERAL CIRCUIT COURTS

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
The Parents Association of Andrew Jackson High School v. Ambach (2 nd Cir. 1979) Jackson I	Controlled Rate of Change Inter-district Plan	In this class action suit families of minority students challenged that the inter-district transfer policy which was enacted to preempt "white-flight"	Strict Scrutiny	In Jackson I the Court found that absent a finding of de jure segregation the court could not compel a district to desegregate its schools. However, it found that voluntary desegregation plans were subject to the judicial standard of strict scrutiny review. Furthermore they found that the voluntary plan in question could survive such scrutiny given the districts compelling interest in maintain schools that are relatively integrated.	N/A
The Parents Association of Andrew Jackson High School v. Ambach (2 nd Cir. 1983) Jackson II	Controlled Rate of Change Inter-district Plan	In this class action suit families of minority students challenged that the inter-district transfer policy which was enacted to preempt "white-flight"	Strict Scrutiny	Restriction of access based on race is permissible: "to promote a more lasting integration is a sufficiently compelling purpose to justify as a matter of law excluding some minority students from schools of their choice under the obviously race conscious rate of change plan.	N/A
People Who Care v. Rockford Bd. Of Educ. (7 th Cir. 1997)	Intra-district Remedial Decree Diversity in Classroom Teacher Assignment	Challenge to several portions of a remedial decree re: faculty hiring and student assignment	Strict Scrutiny	Minority teacher hiring goals were inequitable and unconstitutional; grouping of students by ability is disallowed; strict racial criteria (\pm 5%) for groupings found inequitable.	N/A

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Ho v. S.F. Unified School District (9th Cir. 1998)	Magnet School admissions	Students of Chinese descent challenged consent decree provisions limiting enrollment at highly coveted Lowell Magnet School based on ethnicity.	Strict Scrutiny	<p>Court ruled that the Consent Decree's racial provisions in both magnet and non-magnet schools were subject to the strictest judicial scrutiny.</p> <p>The Court noted the long history of the invidious use of race against people of Chinese descent in SF which makes it especially hazardous to adopt racial classifications; schools cannot make broad generalization on race. Legal rights are personal and are not related to group affiliation. Race may be deployed <u>only if necessary</u> to repair injuries inflicted upon persons because of race. Race may be used in very limited way. Ninth circuit remanded asking the trial court to evaluate the entire consent decree. The issues for trial were whether vestiges remain and whether Consent Decree is necessary to remove vestiges and narrowly tailored.</p>	See below

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
San Francisco NAACP v. San Francisco Unified (N.D. Cal. 1999)	Magnet and student assignment Under Consent	School officials had to create a new student assignment plan as a result of legal settlement in <u>Ho v. SFUSD</u> in 1998 that ended race as main criteria for student assignment. School officials proposed a plan that included socioeconomic status, linguistic background, and race as multiple factors.	Strict Scrutiny	Court ordered SFUSD to explain why continued use of race does not result in presumptively unconstitutional racial classification subject to strict scrutiny. Even though the District tried to achieve diversity by using factors in addition to race – socioeconomic, status, academic achievement and English proficiency – court still found program to result in assignment to or exclusion from a school based at least partly on race. The Court held that continued use of race was not narrowly tailored and thus not allowed.	

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Wessman v. Gittens (1 st Circuit, 1998) "Boston Latin School"	Magnet School	<p>Challenge to assignment policy of Magnet school that uses race. Policy allotted ½ seats composite score ranking in conjunction with flexible racial guidelines in proportion to the racial composition of pool of qualified applicants. Plaintiff Wessman (who had a higher composite score than minority applicants who were accepted into BLS) was displaced due to this admissions policy. The policy (which was known as Option N50) replaced the previous 35% "set aside" for minority applicants at BLS. It was implemented after 1995 when a BLS applicant challenged the constitutionality of the 35% set aside policy.</p>	Strict Scrutiny	<p>Whether diversity is compelling is unresolved. Court strikes down admission policy, finding that policy is not justified by district's interest in promoting diversity. Assuming diversity could be compelling in certain circumstances, the policy at issue was more a method of achieving racial balancing than a means of attaining diversity. Approving racial balancing sets dangerous precedent always forbidden by Constitution. Government may not allocate benefits and burdens among individuals based upon the assumption that race or ethnicity determines how they act or think. Rejected a litany of broad generalizations – rank speculation – lauding the benefits of racial diversity. Abstract and generalized diversity justification is not sufficient. Diversity justification must go beyond theoretical and go to objective, concrete workings. "The devil is in the details." Need particularized attention to specific details in order to ascertain whether the policy is necessary to ends it espouses. Policy's single focus on race rather than broad array of qualifications reveals it is merely seeking racial balance. A "particularly strong showing of necessity" would be required to justify racial balancing. Failed to show solid and compelling evidence that proportional representation promoted diversity or affected students' capacity and willingness to learn.</p>	N/A

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Eisenberg v. Montgomery Public Schools (4 th Cir. 1999)	Magnet School	<p>White elementary student seeking entry to magnet school challenged policy that uses diversity as one of five factors for admission. Eisenberg appeals the district court's denial of his motion for a preliminary injunction to compel his admittance to the math and science magnet program at Rosemary Hills Elem. Sch. Eisenberg originally applied for a transfer to Rosemary Hills Elem. Sch. for the 1998-99 school yr. his first gr. yr and was denied admission.</p>	Strict Scrutiny	<p>Court was very hostile to idea that diversity could be compelling state interest, but declined to rule on the question. Court found school was engaging in racial balancing which is unconstitutional and not narrowly tailored and enjoined portion of assignment policy that used race.</p>	U.S. Supreme Court denied certiorari

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Tuttle v. Arlington School Board (4 th Cir. 1999)	Magnet Elementary School	<p>Challenge to an alternative sequential weighted random school lottery based upon 15% of the following factors: ethnicity, socioeconomic status, and English proficiency. Applicants from under-represented groups had increased probability of selection. Two Arlington Traditional School (ATS) applicants Grace Tuttle and Rachel Schler filed suit under 28 U.S.C.A. Section 2201, and Section 42 U.S.C.A. Section 1981 and 1983 to enjoin the School Board from implementing its policy. The district court granted the injunction and ordered the School Board to conduct a double-blind random lottery for future ATS admissions. ATS is an alternative kindergarten school that claims to teach its students in a "traditional format".</p>	Strict Scrutiny	<p>Since the Supreme Court has not resolved whether diversity can be a compelling state interest, court did not reach issue. The Court held that so long as race is one factor in student assignment it is subject to strict scrutiny. Court invalidated lottery based saying it was not narrowly tailored since it relied on racial balancing. There were race neutral alternatives presented by Committee; the Court found no ending point. Relationship between goal and % minority is merely racial balancing. The goals of diversity and serving educational needs of students do not require racial balancing. Not flexible because does not treat as individuals -- rather looks solely at race. The policy burdens innocent kindergarten age children. The articulated purposes of diversity and avoiding racial isolation are the same. White student not allowed to transfer to magnet school because increase racial isolation. To avoid racial imbalance and isolation the school uses non-remedial transfer policy. All racial classifications are presumptively invalid. Although both whites and nonwhites are impacted, they are denied transfer solely on race. Pernicious racial classification require the most exact connection between justification and classification. Non-remedial justifications are one and the same and fail to meet constitutional muster.</p>	U.S. Supreme Court denied certiorari

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Hunter v. UC Regents (9 th Cir. 1999)	Special Focus/ Competitive Admission to a Lab school	A university-affiliated elementary school that researched educational techniques considered race in admissions, in order to make its study scientifically credible.	Strict Scrutiny	California's interest in running a research-oriented elementary school dedicated to improving the quality of education in urban public schools is a compelling state interest.	N/A

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Boston's Children First v. City of Boston (D. Mass. 1999)	Intra-district Student assignment	Following unitary status, city implemented student assignment plan to achieve racial balance +/-15% through 2000; city then plans to make student assignments without reference to race	Strict Scrutiny	<p>Court declines to issue preliminary injunction barring implementation of the plan and barring the use of race whatsoever. The court also stated that whether diversity could be a compelling state interest was unresolved.</p> <p>Diversity strongest for elementary students where socialization begins and merit concerns regarding admission on the basis of merit are at minimum.</p>	N/A

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
<p>Capacchione v. Charlotte-Mecklenburg "Swann" (W.D. N. Carol. 1999)</p>	<p>Magnet school program</p>	<p>White student challenged magnet program (which is part of remedy in Swann) contending she was denied benefits of program based on race. The case was consolidated with the Swann case (an earlier case where a group of parents of Black children filed a complaint for injunctive relief claiming that CMS's policies perpetuated a segregated school system. CMS then filed an answer asserting that the magnet program was instituted in an attempt to comply with the courts orders. Capachione then filed an amended complaint stating that the court-ordered desegregation plan did not justify the discrimination in question because the school system had long since achieved unitary status.</p>	<p>Strict Scrutiny</p>	<p>Court declared school system unitary against District's will. Emerging consensus is that diversity is not a compelling state interest, only such interest is remedying the effects of intentional segregation. Even if compelling because compliance with court order, the remedy must be narrowly tailored. Held that in the context of a unitary setting magnet admission cannot clear the first hurdle of strict scrutiny by showing a compelling governmental interest. Held CMS pursuit of diversity is nothing more than a means for racial balancing and suffers from the "role model defect of <i>Wygam</i> and would apply in perpetuity."</p> <ul style="list-style-type: none"> • Race as one among many factors is still a line drawn on the basis of race • the use of numerical guidelines operated as inflexible quotas to the extent left seats vacant when quota not met • government cannot erect barriers that make it more difficult for one group to obtain a benefit 	<p>In 1999, federal Appeals Court ruled that District does not have to dismantle desegregation plan immediately because it would require "Herculean" efforts.</p>

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
Scott v. Pasadena U.S.D. (C. Dist. Cal. 2/23/00)	Magnet School program	School district runs three "voluntary" schools, and considers race and ethnicity as part of voluntary desegregation plan to achieve balance of +/- 20%	Strict scrutiny	The court granted summary judgment to white students who had been denied transfer. Diversity as a compelling interest is an unresolved issue. Assuming, without holding that it can be a compelling interest, the plan is not narrowly tailored. The court showed hostility toward the diversity rationale, and found that the school district did not have a compelling interest in using racial classifications. Applying strict scrutiny, the court held that the policy was not narrowly tailored because (a) it is not race neutral, (b) it does not indicate when or if racial classifications will end, (c) weighing the lottery for certain applicants when the applicant pool is out of balance is the equivalent of a "numerical set aside," (d) it does not provide for waiver, and (e) the burden of the policy falls on white students "through no fault of their own."	Appeal in process with possible 9 th Circuit Court decision to grant or deny appeal early November 2000.
Stanley v. Darlington County School District (D.S. Car. 1996)	Magnet school programs included in Intra-district desegregation plan under Consent Order	As part of remedy for past discrimination, within a consent order the court created a magnet high school and imposed a 50/50 black/white ratio on magnet school for three year period.	Intermediate or Strict Scrutiny	Court rejected school district's request for variance from 50/50 ratio. Court noted that intermediate scrutiny might apply, but that the policy could survive even strict scrutiny, since remedying past discrimination is a compelling state interest, and the remedy is narrowly tailored since the discrimination was "pervasive, systematic and obstinate."	N/A

**AFFIRMATIVE ACTION CASES
UNITED STATES SUPREME COURT**

Case Name	Type of Case	Facts	Standard of Review	Holding/Court's Action	Status
UC Regents v. Bakke (Sup. Ct. 1978)	Affirmative Action -- Medical School	White male was denied admission to UC Davis Medical School.	Strict Scrutiny	<p>The fourth goal asserted by petitioner is the attainment of a diverse student body. This clearly is a constitutionally permissible goal for an institution of higher education.</p> <p>Ethnic diversity, however, is only one element in a range of factors a university properly may consider in attaining the goal of a heterogeneous student body. In such program a race or ethnic background may be deemed a "plus" in a particular applicant's file, yet it does not insulate the individual from comparison with all other candidates for the available seats.</p>	N/A
City of Richmond v. Croson (Sup. Ct. 1989)	Affirmative Action -- Public Contracting	Bidder brought suit challenging city's requirement that at least 30% of dollar amount of contracts be subcontracted out to Minor Business Enterprises.	Strict Scrutiny	<p>Court held that government programs designed to remedy past discrimination are permissible only if relevant empirical evidence demonstrates existence of disparate treatment. An "amorphous claim" of past societal injury or discrimination in the industry is insufficient to justify racial quotas.</p> <p>Justice O'Connor wrote "Classification based on race carry a danger of stigmatic harm. Unless they are strictly reserved for remedial settings, they may in fact promote notions of racial inferiority and lead to a politics of racial hostility."</p>	N/A