

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

Argued: October 12, 1977

Decided: June 26, 1978

Background and Facts

The **Equal Protection Clause** of 14th Amendment to the U.S. Constitution states that, “No State shall...deny to any person within its **jurisdiction** the equal protection of the laws.” It is used to ensure that individuals are treated equally by states, regardless of their race, gender, or nationality.

The Supreme Court’s decision in *Brown v. Board of Education* (1954) made it so that public schools had to stop **discriminating** based on race. This helped give all students access to the same educational opportunities. The decision in *Brown* did not specifically state that it applied to universities. Even so, the reasoning behind it applied to public universities as well because they also receive funding from the government.

To increase diversity, many universities used **affirmative action** programs. These programs were an attempt to undo the effects of discrimination throughout history. Universities also believed having a diverse student body would benefit all students. Affirmative action programs were sometimes done through the use of **quotas**, recruitment programs, and other race-based factors.

Affirmative action programs became controversial quickly. Critics called them “reverse discrimination.” They did not think that a person’s race should be considered. This is a case about if universities should use of race as a factor in admissions.

In the early 1970s, the University of California Davis School of Medicine (UC Davis)¹ started an affirmative action program. The program was supposed to increase the number of “minority” or “**disadvantaged**” students in the school. On the UC Davis application, candidates could mark that they were part of a “minority” group. They could also choose the option “economically and/or educationally disadvantaged.” The applicants who chose one of these options were sent to the special admissions team. This team used a different process than the regular admissions program. These applicants did not have to meet the grade point average (GPA) cut off of the regular program. They also were not compared to the candidates in the regular program. This program saved 16 out of 100 spots in the medical school’s class for applicants chosen by the special admissions team.

Allan Bakke was a 33-year-old White person who applied to UC Davis in 1973. Bakke had a strong academic record. He earned a high score on the medical school entrance exam (MCAT). His interviewer at UC Davis described him as well-qualified. He was recommended for admission. But, he soon learned that UC Davis had rejected him.

¹ The terms “minority” and “disadvantaged” were used by the University of California in 1978.

Bakke complained to a UC Davis admissions counselor. He was encouraged to reapply. In 1974, Bakke did so but was rejected again. He then sued UC Davis in California state court. He said that the special admissions program was unconstitutional. The judge agreed with Bakke. The court ordered UC Davis to ignore race during the admissions process.

Both Bakke and UC Davis appealed this decision. The school appealed because it believed the special admissions program was constitutional. Bakke appealed because he believed that the judge should have ordered the school to admit him. The case went to the California Supreme Court. The court asked UC Davis to prove that Bakke would have been rejected in a program that did not consider race. The university could not prove it. The court ordered the school to admit Bakke.

After this order, UC Davis asked the U.S. Supreme Court to review the case. They also asked to postpone Bakke's admission while it did so. The Court agreed.

Issue

Does UC Davis' special admissions program violate the 14th Amendment's Equal Protection Clause and Title VI of the Civil Rights Act of 1964?

Arguments for Regents of the University of California (petitioner)

- The 14th Amendment states that people should be treated *equally*, not the *same*. To treat people equally, we must give less **privileged** people what they need in order to have an equal starting place as those who are more privileged.
- There is a history of **systemic racism** in the United States. This has given White people more access to higher education than racial minorities. Programs should encourage and help people of color join specialized fields like medicine.
- The special admissions program at UC Davis did not only review applications by “minority” applicants. It also reviewed White applicants who were “disadvantaged” in some way. White applicants were also considered through the special admissions program. This means it did not violate the Equal Protection Clause.
- Bakke would not have been admitted to UC Davis even if there was no affirmative action program because of other factors.

Arguments for Bakke (respondent)

- The 14th Amendment does not allow a state to treat people differently based on race. Even if this type of unequal treatment is less harmful than other types of discrimination, it should still not be allowed.
- The 14th Amendment states that people should be treated *equally*. Using quotas is not treating people equally based on race. White applicants were treated “less well” than “minority” applicants because they needed higher GPAs and test scores to be admitted.

- There were White applicants who chose to be considered as “disadvantaged” on their applications. But none were admitted through the special admissions program which might be a violation of the Equal Protection Clause.
- The special admissions program at UC Davis admitted some candidates who had lower GPAs than those who were rejected by the regular program. Bakke had a higher GPA than some candidates admitted through the special program. This means he was more qualified to attend UC Davis than they were.

Decision

In a 5–4 decision, the Supreme Court struck down UC Davis’ special admissions program. The Court ordered the school to admit Bakke. Six justices wrote opinions because they had different reasons for their decisions.

Justice Powell found that UC Davis’ special admissions program did discriminate against Bakke based on his race. The school saved 16 out of 100 spots in the class for non-White students. That means White applicants were able to compete for only 84 of the spots. “Minority” applicants could compete for all 100 spots. The policy treated White applicants differently from applicants of other races. That means the quota system violated the 14th Amendment’s Equal Protection Clause.

Justice Powell also found that the school’s goal of increased diversity was valid so the school could use race as one of many factors when deciding whether to admit applicants. But it could not be the only factor used. The school should consider other factors as well. These include factors such as religion, educational background, and financial status.

Impact of the Case

In 1996, the state of California banned the use of race as a factor in admissions decisions. Other states took on similar bans. The University of California later tried other policies to try to increase diversity. One of these policies was automatically accepting the top 4% (based on grade point averages) of California high school students.

The decision in *Bakke* did not end the debate over affirmative action in higher education. In *Grutter v. Bollinger* (2003), a White student applied to University of Michigan Law School. She was rejected. The Court’s 5-4 decision echoed Justice Powell’s opinion. The school’s admission policies used race as a factor. However, because there were other factors in consideration, the policies were constitutional.

The Court is still divided on these issues. Cases against other affirmative action programs are ongoing. In 2019, a lower court denied a challenge by Asian American students to Harvard’s admissions policies. This case could raise issues before the Supreme Court once again.

Glossary

- **Affirmative action:** programs that favor groups who have faced historical discrimination.
- **Disadvantaged:** the state of not having the same resources as those who are “advantaged.”
- **Discriminate:** to treat someone unfairly and differently than others just because of certain characteristics, like their race or gender.
- **Jurisdiction:** official power to make legal decisions.
- **Inferior:** lower in rank, quality, or worth.
- **Privileged:** having special advantages or rights.
- **Quota:** a fixed number. In this case, the quota is the number of students from the special admissions program required to be accepted into the medical school class.
- **Systemic racism:** racism that exists in society in the form of wealth, healthcare, housing, access to food, school systems, and other areas of life.

Additional information about *Regents of the University of California v. Bakke*, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.