

The United States Supreme Court

The University of Michigan Admissions Lawsuits

Grutter v. Bollinger

ARGUMENT OF ANTI-AFFIRMATIVE ACTION PLAINTIFFS

Racially Disparate Rates of Admission For Applicants with Similar Grades and Test Scores

Compiled from the Powerpoint slides presented by the Plaintiff's Statistician,
Dr. Kinley Larntz, at the trial of this case in federal district court.

Barbara Grutter, who is white, applied in 1996 to the Michigan Law School and was rejected. Many minority applicants with much lower undergraduate grade point averages (UGPA) and law school aptitude test scores (LSAT) were accepted. Testifying in Grutter's behalf, Prof. Kinley Larntz displayed the different rates of admission for racially favored and other applicants, using grids of cells codetermined by grades and scores.¹ For example, Grutter's UGPA was 3.81; her LSAT score, 161. This placed her in the cell of applicants with UGPAs of 3.75 and above, and LSATs of 161 - 163. In this cell the 1995 admission rate for Favored Minority Applicants was **100%: three out of three**, while the rate for Other Applicants was **9%: 13 out of 138**.

Grutter's UGPA was much higher than the 1995 median for all applicants (3.49), while her LSAT was slightly lower than the median (162). An applicant having the median scores would place in the cell with UGPAs of 3.25 - 3.49 and LSATs of 161 - 163. The 1995 admission rate in this cell for Favored Minority Applicants was again **100%: seven out of seven**; the rate for Other Applicants was **5%: 10 out of 191**. The Favored Minority Applicants included African, Mexican, Puerto Rican and Native Americans. The Other Applicants were Caucasian, Asian and Pacific Island, and Other Hispanic Americans, as well as Foreigners and Students of Unknown Identity.

The racially disparate rates of admission for similarly qualified applicants presented in Prof. Larntz's 1995 grid were not challenged in cross-examination, and were emphasized in Judge Bernard Friedman's opinion. Why the presentation concentrated on 1995 rather than on the next year, when Grutter actually applied, is not clear. But no one at trial suggested that the size of the disparities varied much from 1995 through 2000.

PRO-AFFIRMATIVE ACTION DEFENDANTS NOTE: The defendants do not dispute the *data* of the grid – we dispute the conclusions the anti-affirmative action forces draw from it. It is undisputed that black, Latina/o and Native American students from the wealthiest families score lower on the standardized tests than do white students from the poorest socio-economic backgrounds. HOWEVER, unlike the anti-affirmative action forces who unquestionably equate test scores with “merit”, and therefore conclude that black, Latina/o and Native American students are *intellectually inferior* to white students, we ask **WHAT IS IT ABOUT THE TESTS THAT CAUSE UNDER-REPRESENTED MINORITY STUDENTS TO SCORE LOWER THAN WHITE STUDENTS?**

One of the reasons (there are several) for the racial disparity in test scores is related to test construction. The questions deemed by the test writers as effective are those questions that tend to be answered correctly most often by those individuals who tend to score well on the test as a whole. The test writers know from their collection of basic demographic data that there are wide, unexplained group differences in performance on particular questions. Questions that tend to be answered correctly by a minority of individuals who, taken as a whole, tend not to score well, are questions that are not used in the actual SAT. In other words, experimental questions (questions that are not scored but may be used on a future test) that black, Latino, and other underrepresented minority students do better on than whites are automatically selected out. This self-referencing test development method hurts demographic groups who have scored worse on average in the past. While not the product of conscious racist bias, the discriminatory impact of this process is very harmful and very important. [See references on last page of document]

University of Michigan Law School
Profile of 1995 Rates of Admission for Racially Favored Minority
Versus Other Applicants with Similar Undergraduate Grades and LSAT Scores

Percentile Ranks by Grade & Score	UGPA-LSAT Grid Cell	Favored Minority Admit Rate	Other Applicant Admit Rate
10th	UGPA 2.75 - 2.99 LSAT 148 - 150	6% (1/16)	0% (0/15)
20th	UGPA 3.00 - 3.25 LSAT 154 - 155	25% (2/8)	0% (0/21)
30th	UGPA 3.25 - 3.49 LSAT 156-158	83% (15/18)	1% (1/75)
40th	UGPA 3.25 - 3.49 LSAT 159 - 160	60% (3/5)	3% (3/104)
50th	UGPA 3.25 - 3.49 LSAT 161-163	100% (7/7)	5% (10/191)
60th	UGPA 3.50 - 3.74 LSAT 161-163	93% (13/14)	8% (19/231)
70th	UGPA 3.50 - 3.74 LSAT 164-166	67% (2/3)	40% (97/245)
80th	UGPA 3.50 - 3.74 LSAT 167 - 169	--- (0/0)	76% (138/172)
90th	UGPA 3.75 + LSAT 170 +	100% (1/1)	95% (143/151)

The Admit Rates are compiled from Grid Cell data submitted in February 2001 by plaintiff in Grutter v. Bollinger, at trial under Judge Bernard Friedman in US District Court. UGPA stands for Undergraduate Grade Point Average; LSAT, for Law School Aptitude Test. A percentile rank at or near 10 in UGPA and LSAT performance places the applicant in the first row of the table, and so on. Racially Favored Minorities were African Americans, Mexican Americans, Puerto Ricans and Native Americans. Other Applicants were Caucasian Americans, Asian Pacific Island Americans, Other Hispanic Americans, Foreign Applicants, and Applicants of Unknown Ethnic Identity.

PRO-AFFIRMATIVE ACTION DEFENDANTS NOTE:

University of Michigan Law School
Comprehensive View of 1995 Rates of Admission for Racially Favored Minority
Versus Other Applicants with Similar Undergraduate Grades and LSAT Scores *

The first table presents the percentages of applicants admitted, in grid cells codetermined by college grades and LSAT scores. The second table presents the data from which these percentages were calculated, showing number of admits divided by number of applicants.

	LSAT	148-50	151-53	154-55	156-58	159-60	161-63	164-66	167-69	170 +
UGPA										
3.75 +	Favored	0%	25%	50%	60%	67%	100%	100%	100%	100%
	Other	0%	0%	5%	6%	2%	9%	49%	89%	95%
3.50 - 3.74	F	0%	50%	56%	89%	80%	93%	67%	----	100%
	O	0%	0%	6%	2%	5%	8%	40%	76%	92%
3.25 - 3.49	F	25%	43%	58%	83%	60%	100%	100%	100%	----
	O	4%	0%	0%	1%	3%	5%	11%	47%	76%
3.00 - 3.24	F	7%	13%	25%	57%	86%	91%	100%	100%	----
	O	0%	0%	0%	0%	3%	5%	?	?	?
2.75 - 2.99	F	6%	8%	27%	40%	20%	80%	100%	----	----
	O	0%	0%	0%	0%	13%	0%	?	?	?
2.50 - 2.74	F	8%	10%	25%	50%	33%	50%	100%	100%	0%
	O	0%	0%	0%	0%	0%	0%	11%	43%	0%

	LSAT	148-50	151-53	154-55	156-58	159-60	161-63	164-66	167-69	170 +
UGPA										
3.75 +	Favored	0/2	1/4	1/2	3/5	2/3	3/3	3/3	1/1	1/1
	Other	0/11	0/23	1/22	4/63	1/61	13/138	72/148	118/132	143/151
3.50 - 3.74	F	0/7	5/10	5/9	8/9	8/10	13/14	2/3	0/0	1/1
	O	0/28	0/39	3/52	2/87	5/100	19/231	97/245	138/182	131/143
3.25 - 3.49	F	2/8	3/7	7/12	15/18	3/5	7/7	3/3	4/4	0/0
	O	1/27	0/45	0/43	1/75	3/104	10/191	15/141	50/106	87/115
3.00 - 3.24	F	2/28	2/16	2/8	8/14	6/7	10/11	4/4	3/3	0/0
	O	0/28	0/33	0/21	0/49	1/31	3/65	?	?	?
2.75 - 2.99	F	1/16	0/12	3/11	2/5	1/5	4/5	5/5	0/0	0/0
	O	0/15	0/11	0/14	0/15	2/15	0/29	?	?	?
2.50 - 2.74	F	1/12	1/10	1/4	1/2	1/3	2/4	1/1	2/2	0/1
	O	0/6	0/9	0/3	0/8	0/4	0/10	1/9	3/7	0/7

Both tables compiled from Powerpoint Testimony of Dr. Kinsley Larntz, Slides 16-25. Favored Applicants are African, Mexican, Puerto Rican, and Native Americans. Other Applicants are Caucasian, Asian, and Other Hispanic Americans, as well as Foreign Residents and Persons of Unknown Ethnic Identity. UGPA rows and LSAT columns omitted where no applicants accepted. Question marks (?) indicate empty spots in fourth and fifth rows due to obstruction of slide data in those cells for Caucasian Americans, Asian Americans, and Applicants of Unknown Identity. A blank line (—) indicates no applicants. [\[return to table header\]](#)

End Note:

1. Dr. Larntz, Professor of Statistics *Emeritus* at the University of Minnesota, gave a Powerpoint presentation on January 17, 2001, and responded to lengthy questioning from counsel for both sides. This compilation is based on a hardpaper copy of the slides. Excerpts from the cross-examination of Dr. Larntz appear on the website (<http://www.debatingracialpreference.org/GRUTTER-Larntz.htm>)

Defendants references:

See Grutter v. Bollinger trial transcripts at <http://ueaa.net/case.htm>, particularly the testimony of Emory Professor of Psychometry Martin Shapiro; Princeton Review Foundation Director Jay Rosner; and Testing for the Public Director David White