



Legislation Text

File #: Res 0696-2003, **Version:** *

Res. No. 696

Resolution in support of affirmative action admission policies in higher education that take into consideration race and ethnicity among many factors used in making admissions decisions, as such policies serve a compelling state interest for institutions of higher education to achieve diverse student bodies, have the potential to enrich the life of the nation, and better enable the nation to remedy the present effects of past discrimination, and condemning President George W. Bush for attacking such affirmative action admission policies in two cases now pending before the United States Supreme Court, *Gratz v. Bollinger*, Board of Regents of the University of Michigan, et. al., (undergraduate lawsuit) and *Grutter v. Bollinger*, Board of Regents of the University of Michigan, et. al., (law school lawsuit), wherein the legal brief submitted by the Bush administration mischaracterizes the University of Michigan's admissions policy as a "quota" system, and demonstrates a profound insensitivity to civil rights.

By Council Members Barron, Brewer, Comrie, Davis, Jackson, Koppell, Liu, Lopez, Reed, Sanders, Seabrook, Perkins, Martinez and Baez

Whereas, The use of an affirmative action admission policy in higher education is necessary to level the educational playing field, and to remedy the present effects and injustices of past discrimination, whereby qualified applicants had been routinely denied admission to colleges and universities because of their race and ethnicity; and

Whereas, The Board of Regents of the University of Michigan ("Michigan" or the "University") has undertaken to defend two vitally important lawsuits to uphold the University's affirmative action policy for undergraduate and law school admissions; and

Whereas, Michigan's affirmative action admissions policy complies with the controlling precedent set forth in the United States Supreme Court case, *The Regents of the University of California v. Bakke*, 438 U.S. 265 (1978) ("Bakke"); and

Whereas, Michigan's admissions policy, relying on *Bakke*, takes into consideration race and ethnicity as among many factors, including residency, legacy status as a son or daughter of a Michigan alumnus, leadership qualities, unique talents or interests, work experience, quality of undergraduate or secondary institution, quality of the essay, work experience, grades, recommendations, difficulty of undergraduate or secondary school course work, and test scores in making admissions decisions; and

Whereas, Michigan's policy provides that there are many possible bases for diversity admissions, including giving weight to "an Olympic gold medal, a Ph.D. in physics, the attainment of age 50 in a class that otherwise lacked anyone over 30, or the experience of having been a Vietnamese boat person"; and

Whereas, In the *Bakke* decision, Justice Powell's majority opinion held that it is a compelling state interest to achieve a diverse student body which has the potential to enrich the life of the nation; and

Whereas, Michigan's admissions policy describes "a commitment to racial and ethnic diversity with special reference to the inclusion of students from groups which have been historically discriminated against, like African-Americans, Hispanics and Native Americans, who without this commitment might not be represented in our student body in meaningful numbers"; and

Whereas, Students from such racial and ethnic groups are likely to have experiences and perspectives of special importance to the mission of institutions of higher education in providing diverse leaders for this nation; and

Whereas, Michigan's admissions policy was held to be constitutional by the United States Court of Appeals for the Sixth Circuit in *Grutter* because it does not set aside or reserve seats for under-represented minority students when considering race and ethnicity nor strive to admit a particular percentage of under-represented minority students such as to constitute a "quota system", which would be constitutionally defective and in violation of the Title VI of the Civil Rights Act of 1964; and

Whereas, The United States Court of Appeals for the Sixth Circuit in *Grutter* held that the University of Michigan's admissions policy serves a compelling state interest of achieving a diverse student body and noted that an admission policy is narrowly tailored to achieve that interest by using an admissions plan in which race or ethnicity is deemed a "plus", but does not insulate a minority applicant from comparison with other applicants, is not the sole determinative factor in an admissions decision, and is flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant, seeking to select applicants who have the potential for academic success; and

Whereas, President Bush has demonstrated a total lack of moral authority in his opposition to Michigan's affirmative action policy, himself having been the beneficiary of Yale University's affirmative action policy, which uses a "legacy" factor, routinely used by institutions of higher education for the children of alumni, which in President Bush's case arises because he is the son of and grandson of graduates of Yale University; and

Whereas, The *Bakke* decision has provided guidance for nearly twenty-five years to this nation's institutions of higher education with a "how-to-do-it manual" for the admission of minority applicants to professional schools that passes constitutional muster; and

Whereas, Affirmative action in higher education ensures opportunities for the full participation and contributions of all Americans to this nation and the global world in which we live today; now, therefore, be it

Resolved, That the Council of the City of New York support affirmative action policies in higher education that take into consideration race and ethnicity among the factors used in making admissions decisions, as such policies serve a compelling state interest for institutions of higher education to achieve diverse student bodies, have the potential to enrich the life of the nation, and better enable the nation to remedy the present effects of past discrimination; and, be it further

Resolved, That the Council of the City of New York condemns President George W. Bush for attacking such affirmative action admission policies in two cases now pending before the United States Supreme Court, *Gratz v. Bollinger*, Board of Regents of the University of Michigan, et. al., (undergraduate lawsuit) and *Grutter v. Bollinger*, Board of Regents of the University of Michigan, et. al., (law school lawsuit), wherein the legal brief submitted by the Bush administration mischaracterizes the University of Michigan's admissions policy as a "quota" system, and

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