



After further research in the topic and discussions with Professor Zorn, I have decided to base my policy brief on affirmative action in music. I want to find an optimal solution that allows for the diversification of orchestra/music education demographics while avoiding the potential legal/ethical pitfalls of affirmative action.

Intended Audience: Penn State, College of Arts and Architecture Admissions/Administration

- 1) Blanton, James, "A Limit to Affirmative Action?", *Commentary*; New York, N. Y. Vol. 87, Iss. 6, (Jun 1, 1989), pp. 28-32, (ProQuest, Penn State University Libraries)

This article in the June issue of *Commentary* magazine provides a detailed overview of the earliest case of modern affirmative action policies in classical music. This article, specifically regarding the "auditionless" appointment of Detroit Symphony double bassists, Richard Robinson, does a good job illustrating the political/financial battle between American professional orchestra hiring traditions and state legislator initiatives to increase the hiring rate of black musicians. Additionally, author James Blanton accurately addresses the thoughts and opinions of prominent African-American classical musicians in the implementation of affirmative action policies through blind auditions and other forms of treatment for African-American applicants (see article footnotes).

- 2) *Regents of the University of California v. Bakke*, 438 US 265 (1978)

The *Regents of the University of California v. Bakke* case was the first of its kind to be brought to the Supreme Court and has helped establish law surrounding affirmative action policies in university admissions. While the justices were somewhat divided on whether reserving admissions spots for "qualified minorities" was a violation of the 14<sup>th</sup> amendment's equal protection clause, the court still ordered for U.C. Davis to admit Allan Bakke, who had test scores and grades significantly above those of the admitted "qualified minorities". However, the court also declared that it was not unlawful for university admissions to consider race as one of many deciding factors for admission. This decision resonates deeply with the way university admissions are done today and can provide some insight regarding the decision making process that admission/audition committees go through when choosing who to accept.

- 3) *Students for Fair Admissions INC. v. President and Fellows of Harvard College*, Civil Action No. 14-cv-14176-ADB)



BIOET 401Q

Professor Zorn

Annotated Bibliography

The *Students for Fair Admissions INC. v. President and Fellows of Harvard College* case was a huge affirmative action dispute in 2019. In this particular case, the plaintiffs argued that Harvard College admissions held Asian American applicants at a higher standard than others. The case was decided by the District Court of Massachusetts with the court finding Harvard's admission process imperfect, but within right to consider race as one of many factors in admission. Judge Allison Burroughs wrote in her ruling that "[...]the Court will not dismantle a very fine admissions program that passes constitutional muster, solely because it could do better." This case is important to look at as it coincides with the Bakke case in the idea that it is lawful for race to be one of many admissions factors. However, the judge effectively rules against the plaintiff in this case.

- 4) Kupperman, Joel J. "Chapter 8, Preferential Treatment Versus Purported Meritocratic Rights, Affirmative Action: Relevant Knowledge and Relevant Ignorance." *Affirmative Action and the University: A Philosophical Inquiry*, edited by Steven M. Cahn, Temple University Press, 1993, pp. 181–188. *JSTOR*, [www.jstor.org/stable/j.ctt14bs9hb.14](http://www.jstor.org/stable/j.ctt14bs9hb.14). Accessed 19 Mar. 2020.

This reading by Kupperman, while long, has a short section that I find particularly useful. In a chapter titled "Preferential Treatment Versus Purported Meritocratic Rights", Kupperman helps clearly define meritocracy (the idea that goods and privileges are given to those that have expressed talent or achievement) and displays it in stark contrast with the definition of affirmative action.

- 5) Adams, Guy B. "Racism, Community, and Democracy: The Ethics of Affirmative Action." *Public Productivity & Management Review*, vol. 20, no. 3, 1997, pp. 243–257. *JSTOR*, [www.jstor.org/stable/3380975](http://www.jstor.org/stable/3380975). Accessed 19 Mar. 2020.

This article by Adams from the *Public Productivity & Management Review* details the relationship between affirmative action policies with larger societal issues involving racism, community, and democracy. This article examines communitarian ethics and the idea of communitarianism, the idea that a person's personality and identity is shaped by their community and environment rather than individualistic tendencies. This article will be useful in my policy brief as it gives me direct insight regarding the ethics issues and ethical points of view to use in analysis.

- 6) Elliot, Susan, "Breaking Through" *League of American Orchestras*, Aug. 2010



BIOET 401Q

Professor Zorn

Annotated Bibliography

This article gives me a more direct perspective on the demographics of American orchestras and how affirmative action policies are implemented in their audition and hiring processes. The article also details several key organizations with highly praised implementations of affirmative action that I can use to cite as example or use as suggestions. Organizations such as the Sphinx Foundation dedicate themselves to the furthering of minority musicians through minority-only programs and competitions.

- 7) Wilkerson, Isabel, "Discordant Notes in Detroit: Music and Affirmative Action" *New York Times*, Mar. 1989

Similar to the *Commentary* reading, this article again touches on the "special treatment" audition methods that the Detroit Symphony has adopted to increase the diversity of its members. An important point that this reading articulates is the effects of government and congressional intrusion on the arts. Wilkerson studies the effects of Michigan state legislators, David Holmes and Morris Hood and explains how state policy effects the hiring processes of orchestras like the Detroit Symphony because of their organizational dependencies on state funding.

- 8) Penn State University, College of Arts and Architecture, Admission Statistics and Demographics

I am currently working on getting this information from the college dean and the directors of the different schools. This will definitely give me a good idea of the economic and racial distribution of students in my academic college and will allow me to better frame the argument that I hope to present.