Test score, personal statement, recommendations) and on "soft" variables (*e.g.*, strength of recommendations, quality of undergraduate institution, difficulty of undergraduate courses). The policy also considered "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 . . . ." Although, the policy did not limit the seeking of diversity to "ethnic and racial" classifications, it did seek a "critical mass" of minorities so that those students would not feel isolated.[1761]

The *Grutter* Court found that student diversity provided significant benefits, not just to the students who might have otherwise not been admitted, but also to the student body as a whole. These benefits include "cross-racial understanding," the breakdown of racial stereotypes, the improvement of classroom discussion, and the preparation of students to enter a diverse workforce. Further, the Court emphasized the role of education in developing national leaders. Thus, the Court found that such efforts were important to "cultivate a set of leaders with legitimacy in the eyes of the citizenry." [1762] As the university did not rely on quotas, but rather relied on "flexible assessments" of a student's record, the Court found that the university's policy was "narrowly tailored" to achieve the substantial governmental interest of achieving a diverse student body.[1763]

The law school's admission policy in *Grutter*, however, can be contrasted with the university's undergraduate admission policy. In *Gratz*, the Court evaluated the undergraduate program's "selection index," which assigned applicants up to 150 points based on a variety of factors similar to those considered by the law school. Applicants with scores over 100 were generally admitted, while those with scores of less than 100 fell into categories that could result in either admittance, postponement, or rejection. Of particular interest to the Court was that an applicant would be entitled to 20 points based solely upon his or her membership in an underrepresented racial or ethnic minority group. The policy also included the "flag-

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[1761] 539 U.S. at 316.

[1762] 539 U.S. at 330, 332.

[1763] 539 U.S. at 315. While an educational institution will receive deference in its judgment as to whether diversity is essential to its education mission, the courts must closely scrutinize the means by which this goal is achieved. Thus, the institution will receive no deference regarding the question of the necessity of the means chosen, and will bear the burden of demonstrating that "each applicant is evaluated as an individual and not in a way that an applicant's race or ethnicity is the defining feature of his or her application." Fisher v. University of Texas at Austin, 570 U.S. ___, No. 11–345, slip op. at 10 (2013) (citation omitted).