

## Unit 2: Case Brief Assignment

Due: R 10/11 before class starts

You will write a case brief on the culminating issue for this unit. Please submit via Canvas.

### I. Guidelines

- The purpose of this assignment is to introduce you to argumentative writing. (It should also prepare you to write the court opinion for the next unit.)
- Your goal in the case brief is to persuasively present your position and the reasoning that supports it.
- This is an individual assignment. Still, feel free to bounce ideas off of each other as you think through these issues—just make sure that the brief you turn in is your own.
- The brief should be no longer than 1000 words.

### II. Elements of the case brief

- Content
  - Issue- Introduce what the issue is (1-3 sentences)
    - NB: The issue is the central question at the Court is addressing
  - Position- State your position on the issue (1-3 sentences)
  - Facts- Recap the relevant facts (around 250 words)
  - Reasoning- State what the relevant considerations in the case are. You can also use this section to discuss precedent. (around 500 words)
  - Apply the reasoning to your position (about 250 words)
- Organization
  - Make it obvious that you've covered each of the content bullet points. It is recommended that you use section headings to accomplish this.
  - Clearly explain the reasoning that supports your position and the connection between that reasoning and your position.
  - Cover all and only relevant material.
- Mastery of material
  - Incorporate the material from this unit.
  - Explain how the material from this unit bears on the culminating issue.

### III. Pro tips!

- Come to office hours if you would like help! Don't forget that you can make an appointment if the normal hours don't work for you.
- There is a lot to be said about this issue—far more than 1000 words allows you to say. It's better to focus on a narrow point than to superficially cover a lot of points.
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## IV. The Culminating Issue: Affirmative Action and Asian Americans

Issue:

- Do affirmative action policies in college admissions violate equal protection?
- *More specifically*: Do policies implemented by Harvard and others unduly discriminate against Asian Americans?

Background:

- The DOJ is currently investigating a new affirmative action case—one involving Asian Americans and college admissions.
  - They've just written a statement of interest supporting the claims of the plaintiffs alleging discrimination.
- There is a long history of affirmative action law suits that center upon college admissions. The current precedent (which was revisited in the recent *Fisher* case) is that schools cannot use quota systems, but can consider race as one factor in a holistic review of each applicant.
- Schools that use discriminatory practices can lose federal funding.
- There are many arguments given for and against using race as a factor. For example, often, diversity is cited as a value that justifies taking race into account. Interestingly, these arguments appear to apply to Asian Americans in a significantly different way than they apply to whites or other minority groups.

In developing support for your position on the issue, you might consider:

- *The big picture*: What is going to be the overall effect of your position being adopted? For example, if your position is to never use race as a consideration in admissions, what does this mean for various demographic groups?
- *Diversity as a value*: Is diversity a value? If so, when are the costs of pursuing it too high?
- *Why affirmative action*: Why do we have affirmative action in the first place? Is it to correct past wrongs? Is it to correct for present biases? Is it future-looking?
- *Blindness*: Does racial blindness hurt or help the situation? It's plausible that blindness is appropriate for some situations and not for others. How do we figure out whether it's appropriate?

Resources

- You can bring in the cases and issues we discuss in class. Cite everything that you bring in.
- Here are some articles that might help you think about the issues and give some relevant facts. The first three contain the most recent (literally last month and last summer) developments, and pdfs of those are available in files as well.
  - [Statement of Interest from DOJ](#)
  - <https://www.nytimes.com/2018/08/30/us/politics/asian-students-affirmative-action-harvard.html>
  - <https://www.nytimes.com/2018/06/15/us/harvard-asian-enrollment-applicants.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer>
  - <https://www.nytimes.com/2017/08/02/us/affirmative-action-battle-has-a-new-focus-asian-americans.html>
  - <https://www.newyorker.com/news/news-desk/the-uncomfortable-truth-about-affirmative-action-and-asian-americans>
  - <https://www.theatlantic.com/education/archive/2017/08/asians-affirmative-action/535812/>