

The U.S. Supreme Court and other courts have not consistently identified a line between higher education and K-12 cases.

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- *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. xxx (2007)

[2753] “The second government interest we have recognized as compelling for purposes of strict scrutiny is the interest in diversity in higher education upheld in *Grutter*, 539 U.S., at 328, 123 S.Ct. 2325. The specific interest found compelling in *Grutter* was student body diversity ‘in the context of higher education.’ *Ibid*. The diversity interest was not focused on race alone but encompassed ‘all factors that may contribute to student body diversity.’ *Id.*, at 337, 123 S.Ct. 2325.”

[2754] “In upholding the admissions plan in *Grutter*, though, this Court relied upon considerations unique to institutions of higher education, noting that in light of ‘the expansive freedoms of speech and thought associated with the university environment, universities occupy a special niche in our constitutional tradition.’ 539 U.S., at 329, 123 S.Ct. 2325. See also *Bakke*, at 312, 313, 98 S.Ct. 2733 (opinion of Powell, J.). The Court explained that ‘[c]ontext matters’ in applying strict scrutiny, and repeatedly noted that it was addressing the use of race ‘in the context of higher education.’ *Grutter* at 327, 328, 334, 123 S.Ct. 2325. The Court in *Grutter* expressly articulated key limitations on its holding-defining a specific type of broad-based diversity and noting the unique context of higher education-but these limitations were largely disregarded by the lower courts in extending *Grutter* to uphold race-based assignments in elementary and secondary schools. The present cases are not governed by *Grutter*.”

- *Hazelwood School District v. Kuhlmeier*, 108 S. Ct. 562 (1988) (school administrators may exercise editorial control over contents of high school newspapers produced as part of school curriculum) “We have nonetheless recognized that the First Amendment rights of students in the [k-12] public schools ‘are not automatically coextensive with the rights of adults in other settings,’ and must be ‘applied in light of the special characteristics of the school environment.’”
- *Lansdale v. Tyler Junior College*, 470 F.2d 659 (5th Cir. 1972) (striking down public college dress code and grooming requirements) “Today the court affirms that the adult’s constitutional right to wear his hair as he chooses supersedes the State’s right to intrude. The place where the line of permissible hair style regulation is drawn is between the high school door and the college gate.”
Dissent: “I dissent, first, because I see no distinction between high schools and junior colleges under the *Karr v. Schmidt* holding, which is now the law of this Circuit;”
- Residence and attendance zones in higher education: *Richards v. LULAC*, 868 S.W. 2d 306 (Tex. 1994) (striking down challenge to Texas state college funding formulae based upon geographical residence in “border area” of South Texas) “The constitutional directive to maintain ‘an efficient system of public free schools’ does not apply to higher education as that term is used in this case.”