

If you so choose, write a 4-5 page (maximum of 5 pages) memorandum in clear and grammatically correct English on the following case. You should briefly note the facts, isolate the relevant constitutional questions, and discuss those questions referring to the cases we have read in class.

*Parents for Educational Choice v. Salt Lake*

*Assigned March 29, 2007. Due April 5, 2007.*

The judge you clerk for is currently considering its decision in *Parents for Educational Choice v. Salt Lake*, a case involving a school choice plan that primarily assigns students to the high schools they choose. However, in the case that a high school received too many applications for the number of slots it held, a series of “tie-breakers” were used to decide which students attended that school.

Under Salt Lake's plan, students entering ninth grade were able to choose any three of six high schools, and rank them in order of preference. Under this plan, 80% of the three thousand incoming ninth graders were assigned to their first choice of high schools. Nearly all (95%) of the remaining students were assigned to their second choice schools, with all of the remainder assigned to their third choice. If a high school was oversubscribed, the school district first considered whether a sibling also attended the school; students with a sibling at the school received preference over others. The second tie-breaker included racial preferences used to balance the racial composition of the high school when the racial composition of the student body at that high school differed from the school district as a whole by more than 10 percentage points. A final tie-breaker involved the proximity of the student's residence to the school. The racial composition of a school was only a factor in determining assignments to two high schools, out of six high schools within the district, and affected only a small percentage of assignments.

The Salt Lake School District has not previously faced litigation for discriminatory practices. The current plan is voluntary for the school district, and is primarily intended to keep schools from “tipping” and becoming predominately single race as well as providing students with opportunities to meet and interact with students of diverse backgrounds. The lawsuit has been brought by parents of children who were denied their first choice of high school, in part because of race.

In writing a memorandum for the judge for whom you clerk, ask whether Salt Lake's plan conforms with the Supreme Court's decisions in this area. Is Salt Lake's purpose for its plan sufficient to justify its limited use of racial preferences? Are any racial preferences too much?