Jonathan Alger, GC of Rutgers, doesn’t hole himself up in his office. He teaches a course in diversity and the law.

IT’S SEPTEMBER, AND JONATHAN ALGER glances around the room at the 17 students in his freshman seminar on Diversity and the University. Alger, who is vice president and general counsel at Rutgers University, and a national leader on affirmative action, has asked the class to talk about their own experiences with diversity in high school.

A tall young man raises his hand. He grew up in Rutherford, he says, which was a nice town, “but not diverse.” The all-white community was quite different from the one he’s in now, he says. A young woman across the room says she was one of the only Latinas in a school almost entirely African American. A boy wearing a yarmulke confides that this is his first experience in a school not all Jewish.

Finally, a white girl in the middle of the horseshoe raises her hand. She attended two schools. The first was Hightstown High School, the second Princeton High. Overall, the schools were both pretty diverse, but the classes at Princeton were much more homogeneous. Which was a shame, she says: “You learn a lot from the people around you.” That’s why she’s glad to be at Rutgers, she adds, where the student body “mirrors the workforce we’re going to see.”

Bingo. Give that young woman a gold star. Whether by luck or by dint of advanced reading, she happened to hit on one of the strongest arguments the University of Michigan mustered when it successfully defended its affirmative action admissions policy before the U.S. Supreme Court in 2003. And Alger played a significant role as an assistant general counsel there. According to the syllabus, the class will read several Supreme Court decisions, with special attention to the Michigan case, as well as articles by authors who favor schools’ efforts to diversify student bodies, and others who oppose any hint of race in the admissions process.

In the five years since Michigan, Alger has built a national reputation as a legal expert on affirmative action, and an ardent champion of the benefits of diversity. Kathleen Santora, CEO of the National Association of College and University Attorneys (NACUA), says: “He’s very well-known and highly regarded in this area.”

But diversity is not the only subject the 44-year-old lawyer focuses on, though talk show host Don Imus ensured that the race of the women’s basketball team would attract notice when he referred to the players as “nappy-headed ho’s.” As general counsel of a university with three campuses, 50,000 students, 10,000 employees, and literally hundreds of construction projects, he can hardly afford to limit his field of vision. As it happens, however, he has a long-standing interest in employment law, and has...
value for companies on this subject. Just as his students can expect to join a diverse workforce when they leave campus, so should their future employers anticipate the claims they’re likely to bring with them when they arrive.

As Alger recently told a gathering of in-house lawyers at a Manhattan seminar hosted by Littler Mendelson, their in-house lawyers at a Manhattan semiconductor company, there are two lawsuits were brought by students who claimed they were rejected by the law school and the College of Literature, Science, and the Arts, respectively, because the university’s admissions policies favored racial minorities, which violated their own Fourteenth Amendment right to equal protection. The justices held that the law school’s policy properly used race as one of several factors, while the undergraduate policy was the unconstitutional equivalent of a quota.

Alger worked closely with outside counsel developing the briefs and oral arguments. Addressing the court of public opinion, he gave speeches and media interviews. But his largest contribution was coordinating the amicus briefs, which were prominently cited by Justice Sandra Day O’Connor in the opinion that approved the law school’s approach.

In this instance, the women were African American classmates emphatically disagreed. “I saw that you could not equate somebody’s race or ethnicity with a particular point of view,” he says. “And that, of course, is the argument that was the centerpiece of the University of Michigan litigation.” Diversity, the argument goes, benefits everyone on campus—majority and minority students alike.

Three years at Morgan, Lewis & Bockius in Washington, D.C., honed his knowledge of employment law and helped pay off student loans. But it was his next job, at the U.S. Department of Education, Office for Civil Rights, that gave him his first taste of training a staff on diversity—and encountering resistance in the process.

It was 1994, and Alger was explaining when the department could award minority scholarships. He helped develop the policy, but an African American department investigator wondered why he gave a white man his standing to speak. One of Alger’s supervisors, who was also African American, answered before he could. “Everyone has something to contribute,” she said, “and no one is off the hook.”

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For Alger, there’s been plenty on the diversity front closer to home. One of the biggest stories involving racial issues on campus was Imus’s on-air comment last year about the basketball team. During the uproar that followed, which received widespread media coverage, Alger met with the coach and team. He talked about their rights and responsibilities, but explained that he was the university’s lawyer, not theirs.

One player filed a complaint that she quickly withdrew. That was the only legal action. The administration remained in the background in a supporting role. “We felt it was important for the voice of the coach and the student athletes themselves to take center stage,” Alger says. They handled the situation “with grace and dignity,” he adds, “while making some very important points that not just our entire university but our entire society needed to hear about discrimination.” Imus was fired from his job at CBS, though he was hired eight months later by ABC, and returned to the air last December.

It all proved a “teachable moment,” Alger says. He talked about it with his students in the higher education class he teaches to upperclassmen in the spring. Opportunities to grapple with issues of the day are one reason he enjoys teaching so much, he says.

A former student declares that the feeling is mutual. Sharo Atmeh, who graduated in 2007, took Alger’s higher education class as a senior. He’d been thinking of a career in the law, he says, “but I had no idea of what a lawyer really did.” Alger was the first person who gave him a sense. Atmeh is now at Harvard, where he’s pursuing a combined J.D. and master’s in public policy from the Kennedy School of Government. Raised in both the United States and Lebanon, he’s the first person in his family to attend college.

In December, Rutgers will host a three-day conference on diversity. Alger is one of the organizers. It’s cosponsored by the College Board and Columbia University, and five college presidents will be among the speakers. So will Alger. Charlotte Westerhaus, a lawyer who is VP of diversity and inclusion at the National Collegiate Athletic Association, has often teamed with him for presentations. They’re from very different backgrounds, notes Westerhaus, who is African American, and she was apprehensive the first time. “You would expect a dissonance,” she explains. But she says Alger never let ego get in the way. And the audience got to see diversity in action. “In reality,” she says, “it enhanced our presentation.”

Alger poses with his class—who represent the future of the nation’s labor force in all of its diversity.