

by Marshall Croddy and Bill Hayes

Lesson Overview

This teaching strategy extends students' understanding of the 14th Amendment, the Constitution, and the history of civil rights in the United States. Students can enrich their learning by applying knowledge about "equal protection of the laws" to a variety of fact situations and controversies. Adapted from *The Challenge of Diversity* (see Resources p. 30 for more information about this publication), this lesson meets national history and social studies standards. Go to www.insightsmagazine.org for a complete listing of relevant standards addressed by this issue of *Insights*.



Applying the 14th Amendment to Modern Controversies

Following the Civil War, three important amendments to the Constitution were adopted. The 13th Amendment outlawed slavery. The 15th Amendment banned denying citizens the right to vote because of "race, color, or previous condition of servitude." And the 14th Amendment, among other things, guaranteed every person "the equal protection of the laws."

The guarantee of equal protection was not immediately upheld. In 1896, the U.S. Supreme Court ruled in *Plessy v. Ferguson* that the 14th Amendment did not outlaw racial segregation as long as "separate, but equal" facilities were provided. It was not until 1954 that the *Plessy* decision was overruled by *Brown v. Board of Education*. Then in a flurry of cases, the Supreme Court interpreted the 14th Amendment to outlaw all forms of legalized racial segregation. Even today, the Court continues to interpret and apply the 14th Amend-

ment's equal protection clause. In this lesson, students read the 14th Amendment's equal protection clause and a brief summary of how the Court has interpreted it. Then, students are asked to apply the equal protection clause to hypothetical situations.

Diversity Checklist: Equal Protection Analysis

"No state shall ... deny to any person within its jurisdiction the equal protection of the laws."

14th Amendment Equal Protection clause

The equal protection clause has played a prominent role in civil rights cases. It requires that a state treat all individuals the same, when they are in similar conditions or circumstances. The following "SCOPE checklist" shows elements that the U.S. Supreme Court typically considers in equal protection cases:

State action. The equal protection clause applies only to action by a state or local government. The action can be a law, law enforcement, or other action.

The clause does not apply to private individuals, businesses, or organizations, unless the state is somehow involved. Is it involved? If not, there cannot be a claim under the equal protection clause.

Classification. Does the law or action confer or deny benefits to specific groups of people? Equal protection only applies to cases where people are classified into groups. What groups are involved?

Options. There are three levels of scrutiny that the Court can apply. The type of group determines the level of scrutiny. Find the level that applies in this case. *Strict scrutiny* is applied for racial and ethnic groups (known as "suspect classifications"). *Intermediate scrutiny* is applied to gender and illegitimacy ("quasi-suspect classifications"). *Rational basis* is the test applied for all other groups.

Purpose. What is the state's purpose for the law or action? After determining the purpose, decide how strong the state's purpose is. Is it ...

- A legitimate purpose for the state? (required for rational basis)
- An important state interest? (required for intermediate scrutiny); or
- A compelling state interest? (required for strict scrutiny)

Evaluate. As shown above, there are minimum requirements for each level of scrutiny. Does the law in question meet the requirement?

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Equal Protection of the Laws: Three Case Studies

You are justices on the U.S. Supreme Court. You must decide the three equal protection cases below. To analyze each case, use the “Diversity Checklist” (see p. 22) and provide reasons for your decisions.

Case 1: University Elementary School. One state’s public university runs an elementary school on its campus. The elementary school serves as a research laboratory to test new teaching methods. The school carefully enrolls elementary students to make sure the student body represents a cross section of the state’s various ethnic and social groups. A white couple has sued; their girl was denied admission because the school already had enough white students.

Does the university’s action—denying the child’s admission on account of her race—violate the 14th Amendment’s equal protection of the laws?

YES NO Explain

Case 2: The J Club. The J Club is an exclusive private club in a major city. Many of the city’s most important business people belong, and many vital business connections are made there. The club has traditionally excluded minorities. Harry Smith, a prominent African-American businessman, recently arrived from another city, applied for membership, and was turned down on account of his race. Smith has sued, arguing that the denial violates the 14th Amendment.

Does the J Club’s denial of Smith’s membership violate the 14th Amendment’s equal protection of the laws?

YES NO Explain

Case 3: Serial Killer. Following a series of violent murders in a city, police have determined that the suspect is a black male who drives a red pickup truck. Police have started pulling over for minor traffic infractions all black men driving red pickup trucks. A black male who was pulled over has sued to stop police from continuing this practice.

Does the police practice of pulling over drivers because they are black, male, and driving red pickups violate the equal protection clause of the 14th Amendment?

YES NO Explain
