

A number of important cases are located in the spreadsheet and page 345-351.  
This sheet answer the important questions, defines key terms and explains affirmative action.

### -- AFFIRMATIVE ACTION (one more court case)

Regents of the University of California v. Bakke:

1. Bakke was a white man who applied to UCA multiple times and had been rejected a number of times.
2. UCA had 16 out of every 100 new class seats reserved for qualified minorities.
3. Bakke argued his scores and qualifications were greater than all of the minorities who had entered. The argument then became "Bakke → excluded solely on the basis of race."
4. He sues, taking the issue into CA court and then the SC

Before we ask the question: affirmative action is defined as "A set of procedures designed to eliminate unlawful discrimination among applicants, remedy the results of such prior discrimination, and prevent such discrimination in the future. Applicants may be seeking admission to an educational program or looking for professional employment. In modern American jurisprudence, it typically imposes remedies against discrimination on the basis of, at the very least, race, creed, color, and national origin.", according to [[https://www.law.cornell.edu/wex/affirmative\\_action](https://www.law.cornell.edu/wex/affirmative_action)]

UCA here is attempting to remedy past discrimination in the medical field using affirmative action.

The question is: **Does this affirmative action policy violate the EQPC and the Civil Rights Act of 1964**

The decision is: complicated because of course it is.

Four of the justices argued that any racial quota system supported by the government was unconstitutional. One of them argued that the racial quota system violated the Equal Protection Clause. The last four dissenters held that it was OK to use race as a criteria for admission.

In the end, the opinion that won was in favor of Bakke: Bakke was allowed into the medical school, however, the decision in the end did NOT say that affirmative action was explicitly prohibited. The problem here was that race was the only factor that decided Bakke's fate.

In this case, the rights of minorities were being balanced with being colorblind? Or some other value.

### -- KEY TERMS

equal protection clause/301

A part of the 14th Amendment: nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws. Used as an argument in a number of cases.

Fifteenth Amendment/301

Guaranteed freedmen the right to vote. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Fourteenth Amendment/301

Guarantees freedmen citizenship, equal protection, and due process throughout the United States (previously it was limited to only federal I think)

Thirteenth Amendment/301

Makes slavery illegal throughout the United States.

Civil Rights Act (1875)/302

One attempt to bar discrimination in both the public and private spheres, which was shot down around 8 years later because of the "private" part of the law.

Jim Crow laws/302

Laws passed in order to disenfranchise people that did not violate directly the Reconstruction Amendments but still had the same effect.

grandfather clause/303

"A white person may be eligible to vote if their grandfather was." This had the effect of allowing countless white people to bypass restrictions while blacks were still being held to the restriction.

literacy test/303

A test voters were to pass before voting.

NAACP

The National Association for the Advancement of Colored People. Interest group that has sued in a number of cases that led to the promotion of rights for POCs.

Plessy v. Ferguson (1896)/303

SC case that ruled that separate but equal did not violate the EQPC, as it was still "equal".

poll taxes/303

A fee that had to be paid before voting.

"separate but equal"/303

An idea that attempted to justify segregation by saying that as long as each side was given the same thing it was equal, not illegal and fair, regardless of the separation.

white primary/303

A primary in which white men were the only voters allowed.

Brown v. BiE (1954)/305

A landmark case that overturned Plessy v. Ferguson, saying that separate but equal was horseshit because it was obvious that the other facility wasn't as good as the other.

white flight/306

In order to uphold Brown, a number of cities/districts were forced to roll enrollments, which was to maintain a ratio of white:POC in each of its schools. This was not something white people liked so they left in droves. This leaving is the white flight.

Civil Rights Act (1957)/309

Gave the federal government power to uphold various civil rights provisions, establishes the United States Commission on Civil Rights and the United States Department of Justice Civil Rights Division. I don't ever remember learning about this.

#### Civil Rights Act (1964)/312

A law passed in 1964 that bars discrimination in the public/private spheres, in employment, gives the A. General to take action if the law was not followed. Would then later be amended by Title IX to bar discrimination on sex in education.

#### Twenty-Fourth Amendment/315

Officially ends the poll tax. "The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax."

#### Voting Rights Act (1965)/315

Further legislation passed in 1965 to protect voting rights specifically and closing off many of the loopholes that had been used before (shooting down Jim Crow laws).

#### majority-minority districts/316

A Congressional district in which a minority population is the majority.

#### preclearance/316

After the passing of the VRA65, changes to election rules had to be run through the federal government to check that they didn't have the effect of disenfranchising some population.

#### strict scrutiny/316

When some government body makes sure that legislation or some other action violates as few rights as possible while furthering some state interest. The action is allowed to fly so long the law is tailored specifically to an interest and makes an effort to avoid violations of Constitutional rights. This is usually applied when a law could be in violation of a right but could also serve some legitimate purpose or interest.

#### freedom-of-choice plans/319

After segregation was ended, many schools offered this option which essentially meant "now we aren't going to move you, you move yourself and integrate yourself". This target black students and made it difficult to feel the benefits of Brown.

#### Swann v. Charlotte- Mecklenburg (1971)/321

Allowed busing and held that courts had the power to attempt to remedy past wrongs after they happened, and that racial ratios / quotas were legitimate starting points for that.

#### Equal Pay Act (1963)/323

Made it so women and men had to be paid the same amount for the same job. However, there was a loophole: just don't give women the job in the first place. This would be addressed in the CRA afterwards.

#### National Organization for Women (NOW)/323

Interest group formed by B. Friedan to promote the rights of women.

#### Nineteenth Amendment/323

**“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.”**

#### **Title IX/324**

**An amendment to the CRA64 that prevents discrimination in education based on sex.**

#### **Equal Rights Amendment/325**

**Declared the sexes equal and passed both chambers of Congress before expiring after states didn't ratify.**

#### **heightened scrutiny test/325**

**Like strict scrutiny, but in order to fly, the governmental action must serve some legitimate interest and be SUBSTANTIALLY RELATED to it.**

**“Intermediate scrutiny is a test courts will use to determine a statute's constitutionality. Intermediate scrutiny is only invoked when a state or the federal government passes a statute which negatively affects certain protected classes (this is described in further detail in the next section). To pass intermediate scrutiny, the challenged law must:**

**further an important government interest**

**and must do so by means that are substantially related to that interest.**

**As the name implies, intermediate scrutiny is less rigorous than strict scrutiny, but more rigorous than the rational basis test. Intermediate scrutiny is used in equal protection challenges to gender classifications, as well as in some First Amendment cases.**

**Further courts will sometimes refer to intermediate scrutiny by other names, such as "heightened scrutiny," or as "rational basis with bite." When referred to by these names, courts will typically use the same two prongs used for intermediate scrutiny.”**

#### **Lawrence v. Texas (2003)/327**

**Two men were found having gay, consensual sex when police entered for some other unrelated call. It was eventually found that the men's convictions were unconstitutional, as it violated the Due Process Clause. “They have full right under the DPC to conduct these consensual activities in the privacy of their own homes.” And furthermore, these did not serve any legitimate interest.**

#### **Defense of Marriage Act (DOMA)/328**

**An act that defined marriage (as hetero only), blocked federal services from accepting SSM, and made it illegal to force states to accept SSM.**

#### **“don't ask, don't tell”/328**

**A compromise in the military reached by Congress: they would not outlaw being a homosexual in the military, but now, the military was forbidden to ask their LGBTQ members about their sexual orientation. Thus, LGBTQ people could serve, but not openly. Eventually this was repealed by the Obama administration.**

#### **Obergefell v. Hodges (2015)/331**

**Ruled that not granting marriage licenses and thus prohibiting same sex marriage did not fly because of the Due Process Clause and the EQPC, as marriage was a fundamental**

right. It did however say that religious organizations could still adhere to their principles (the “no straight answers” thing).

quotas/334

A quota is a certain requirement based on a number that must be met. An example of this was the racial quotas from after Brown.

California v. Bakke (1978)/334

Defined above.

affirmative action/334

Defined above.