**Affirmative Action and the 14th Amendment**

**The 14th Amendment**

The Fourteenth Amendment of the Constitution was ratified by the states in 1868, principally to prevent the southern states from discriminating against the freed slaves. The text of the amendment states that:

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

The exact meaning of the Fourteenth Amendment’s Equal Protection Clause has been debated since its ratification. Some contend that it prohibits a state government agency form ever classifying citizens based on race. Others believe it is ok if done to fulfill the higher purpose of the 14th Amendment (basically to protect the rights of all Americans).

Currently a state governmental program may classify individuals on the basis of race if two criteria are met: 1) the program must promote a compelling government interest; and 2) the program must be “narrowly tailored”- that is, it must be no broader than necessary- to serve the compelling government interest.

1) Describe the meaning the 14th Amendment’s Equal Protection Clause in your own words.

2) Do you think there are good reasons for the government to treat people differently based on race? If yes describe and give examples. If not why not?

3) What criteria must be met in order for the government to treat people differently?

**Affirmative Action**

By the early 1970s, many college admissions policies included some form of affirmative action. In 1974, the California State Legislature passed several resolutions aimed at speeding up the integration process. One of the resolutions essentially called for racial quotas, ordering the University of California to match the racial composition of its student body to that of each year's graduating high school class by 1980. But the UC schools never reached that goal, in part because of several successful legal challenges that classified affirmative action as reverse discrimination.

4) Describe how the University of California attempted to address racial inequalities.

5) Do you agree with this policy? Why or why not?

***Regents of the University of California v. Bakke*** (1978)

The Supreme Court ruled that race could be one, but only one of numerous factors used by discriminatory boards, like those of college admissions. Justice Powell found that quotas insulated minority applicants from competition with he regular applicants and were thus unconstitutional because they discriminated against regular applicants. This was an example of reverse discrimination. Justice Powell, however, stated that universities could use race as a “plus” factor.

6) What did the Court rule in the Bakke case?

7) Do you think this was a good decision why or why not?