What Counts as Equal?

Trace how courts have interpreted equal protection in laws based on race.

OKH.C.8.1.A "Examine judicial interpretation of the equal protection clause of the 14th Amendment."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline each state rule based on race, circle words that explain how a justice or the Court judged equality, and number the three Supreme Court rulings in date order. Use your marks to track how the interpretation of equal protection changed.

Equal Protection Before the Court

1. The Fourteenth Amendment says no state may deny any person "the equal protection of the laws." That promise raised a hard question in 1896: Could Louisiana require Black and white passengers to ride in separate railroad cars? In Plessy v. Ferguson, the Supreme Court said the rule did not violate equal protection if the separate cars were equal in quality. The majority treated physical separation and legal inequality as different things. Justice John Marshall Harlan dissented, arguing that laws dividing citizens by race marked one group as inferior. For decades, governments used the majority's reasoning to defend segregation.

2. In 1954, children challenged laws that separated public school students by race. In Brown v. Board of Education, the Supreme Court examined what separation meant inside schools, not just whether buildings and books matched. The justices concluded that separating children by race harmed their educational opportunities and that separate public schools were inherently unequal. Brown rejected Plessy's approach to public education, even though Plessy had involved trains. The Court did not say every difference between students violates equal protection. It focused on a state rule that sorted children by race and made separation part of their schooling.

3. A different law reached the Court in 1967. Virginia banned marriage between a white person and a person classified as another race. Officials argued that the law punished both partners equally, regardless of which partner was white. In Loving v. Virginia, the Court rejected that defense. A rule did not become fair simply because it placed matching penalties on both people. The state had drawn a line based on race, and its claimed reasons could not justify that line under equal protection. Together, these decisions show why judges examine a law's racial categories and real effects, not only its promise of equal treatment.

2 ANSWER WITH EVIDENCE

Use the passage

1. How did the Plessy majority and the Brown Court differ in judging whether separation could meet equal protection? Use a detail from each ruling.

2. How did Harlan's dissent challenge the Plessy majority's view of equality? Which later ruling came closer to his view?

3. Why did Virginia's claim about equal penalties fail to answer the equal protection question in Loving?

4. Why would it be inaccurate to say Brown decided whether separate railroad cars were constitutional?

3 YOUR TURN

Your own words

A state assigns students to separate public school debate teams by race but gives every team the same budget. Write a six-sentence judicial opinion deciding whether the rule meets equal protection. Use reasoning from Brown and Loving, and explain why the Plessy majority's view would not settle the issue.

ANSWER KEY

What Counts as Equal?

HIGH SCHOOL · OKH.C.8.1.A

PART 1 · READ AND MARK

Underline each state rule based on race, circle words that explain how a justice or the Court judged equality, and number the three Supreme Court rulings in date order. Use your marks to track how the interpretation of equal protection changed. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How did the Plessy majority and the Brown Court differ in judging whether separation could meet equal protection? Use a detail from each ruling.	**The Plessy majority accepted separate railroad cars if they were equal in quality. Brown held that separating public school students by race was inherently unequal, even if buildings and books matched.**
2	How did Harlan's dissent challenge the Plessy majority's view of equality? Which later ruling came closer to his view?	**Harlan argued that dividing citizens by race marked one group as inferior, even if facilities were equal. Brown came closer to that view by finding that racial separation in schools was itself unequal.**
3	Why did Virginia's claim about equal penalties fail to answer the equal protection question in Loving?	**Matching penalties did not make the law fair because Virginia drew a line based on race, and its reasons did not justify that line.**
4	Why would it be inaccurate to say Brown decided whether separate railroad cars were constitutional?	**Brown concerned public schools. It rejected Plessy's approach to public education but did not decide a case about railroad cars.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The debate-team rule violates equal protection because the state assigns students to groups by race. Equal budgets do not erase the separation imposed on students in a public school program. In Brown, the Court found that separating students by race in public schools made their educational opportunities unequal. Debate teams are not classrooms, but the state still controls students' opportunities to work together and compete. Loving also shows that treating people on both sides of a racial line the same way does not make that line fair. Plessy's majority accepted separation when facilities were equal, but Brown rejected that reasoning in public education.

Accept responses that distinguish the scope of Brown's school ruling from Plessy's railroad ruling. In the opinion, look for an explained judgment about the debate-team rule, accurate use of Brown and Loving, and recognition that equal resources alone do not settle the question.