

## Does Treating People Equally Mean Treating Them the Same?

Think about the following question and discuss or write an answer:

**Does treating people equally mean treating them the same?**

What would it mean to treat people equally in the following situations?



A man and a woman apply for a job as a shoe sales person. What would the employer have to do to treat these two applicants equally?



Two patients come to a doctor with a headache. The doctor determines that one patient has a brain tumor and the other patient has a run-of-the mill headache. What would the doctor have to do to treat these two patients equally?



Two students try to enter a school that has stairs leading to the entrance. One student is handicapped and the other is not. What would the school have to do to treat these two students equally?



Two students live in the same school district. The students are the same age, but they are different races. What does the school district have to do to treat these two students equally?

# Brown v. Board of Education (1954)

## Background Summary and Questions • • •



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In the early 1950s, Linda Brown was a young African American student in the Topeka, Kansas school district. Every day she and her sister, Terry Lynn, had to walk through the Rock Island Railroad Switchyard to get to the bus stop for the ride to the all-black Monroe School. Linda Brown tried to gain admission to the Sumner School, which was closer to her house, but her application was denied by the Board of Education of Topeka because of her race. The Sumner School was for white children only.



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Under the laws of the time, many public facilities were segregated by race. The precedent-setting *Plessy v. Ferguson* case, which was decided by the Supreme Court of the United States in 1896, allowed for such segregation. In that case, a black man, Homer Plessy, challenged a Louisiana law that required railroad companies to provide equal, but separate, accommodations for the white and African American races. He claimed that the Louisiana law violated the Fourteenth Amendment, which demands that states provide "equal protection of the laws." However, the Supreme Court of the United States held that as long as segregated facilities were qualitatively equal, segregation did not violate the

Fourteenth Amendment. In doing so, the Court classified segregation as a matter of social equality, out of the control of the justice system concerned with maintaining legal equality. The Court stated, "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."

At the time of the Brown case, a Kansas statute permitted, but did not require, cities of more than 15,000 people to maintain separate school facilities for black and white students. On that basis, the Board of Education of Topeka elected to establish segregated elementary schools. Other public schools in the community were operated on a nonsegregated, or unitary, basis.

The Browns felt that the decision of the Board violated the Constitution. They sued the Board of Education of Topeka, alleging that the segregated school system deprived Linda Brown of the equal protection of the laws required under the Fourteenth Amendment.

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

—Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution



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Thurgood Marshall, an attorney for the National Association for the Advancement of Colored People (NAACP), argued the Brown's case. Marshall would later become a Supreme Court justice.

The three-judge federal district court found that segregation in public education had a detrimental effect upon black children, but the court denied that there was any violation of Brown's rights because of the "separate but equal" doctrine established in the Supreme Court's 1896 *Plessy* decision. The court found that the schools were substantially equal with respect to buildings, transportation, curricula, and educational qualifications of teachers. The Browns appealed their case to the Supreme Court of the United States, claiming that the segregated schools were not equal and could never be made equal. The Court combined the case with several similar cases from South Carolina, Virginia, and Delaware. The ruling in the *Brown v. Board of Education* case came in 1954.

#### Questions to Consider:

1. What right does the Fourteenth Amendment give citizens?
2. What problems did Linda Brown encounter in Topeka that eventually resulted in this case?
3. What precedent did the *Plessy v. Ferguson* (1896) ruling establish? How was that precedent related to *Brown*?
4. This case is based on what the concept of "equality" means. What are the conflicting points of view on this concept in this case?

## Classifying Arguments for Each Side of the Case

The following is a list of arguments in the *Brown v. Board of Education* court case. Read through each argument and decide whether it supports Brown's side against segregation (BR), Board of Education of Topeka's position in favor of segregation (TOP), both sides (BOTH), or neither side (N).

1. The Equal Protection Clause of the Fourteenth Amendment of the Constitution states:

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

The Fourteenth Amendment precludes a state from imposing distinctions based upon race. Racial segregation in public schools reduces the benefits of public education to one group solely on the basis of race and is unconstitutional.

2. The Fourteenth Amendment states that people should be treated equally; it does not state that people should be treated the same. Treating people equally means giving them what they need. This could include providing an educational environment in which they are most comfortable learning. White students are probably more comfortable learning with other white students; black students are probably more comfortable learning with other black students. These students do not have to attend the same schools to be treated equally under the law; they must simply be given an equal environment for learning. The U.S. District Court found that the facilities provided for black children in Topeka were equal to those of white children.
3. Psychological studies have shown that segregation has negative effects on black children. By segregating white students from black students, a badge of inferiority is placed on the black students, a system of separation beyond school is perpetuated, and the unequal benefits accorded to white students as a result of their informal contacts with one another is reinforced. The U.S. District Court found that segregation did have negative effects on black children.
4. No psychological studies have been done on children in the Topeka, Kansas school district. The findings of the psychological studies that demonstrate the negative effects of segregation cannot be stretched to the Topeka school district. There is no indication of personal harm to the appellants.

5. In 1896 the Supreme Court of the United States decided the case of *Plessy v. Ferguson*. In this case, Homer Plessy sued, alleging that his Fourteenth Amendment rights were violated by a Louisiana law requiring the railroad companies to provide equal, but separate, facilities for white and black passengers. The Court declared that segregation was legal as long as facilities provided to each race were equal. The Court declared that the legal separation of the races did not automatically imply that the black race was inferior. Legislation and court rulings could not overcome social prejudices, according to Justice Brown. "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."
6. In 1950 the Supreme Court of the United States decided the case of *Sweatt v. Painter*. In this case Herman Sweatt was rejected from the University of Texas Law School because he was black. He sued school officials alleging a violation of the Fourteenth Amendment rights. The Court examined the educational opportunities at the University of Texas Law School and a new law school at the Texas State University for Negroes and determined that the facilities, curricula, faculty and other tangible factors were not equal. Furthermore, the justices argued that other factors such as the reputation of the faculty and position and influence of the alumni could not be equalized. They therefore ruled in favor of Sweatt.
7. The United States has a federal system of government that leaves educational decision making to state and local legislatures.
8. At the time the Fourteenth Amendment of the Constitution was drafted, widespread public education had not yet taken hold. Education was usually in the hands of private organizations. Most black children received no education at all. It is unlikely that those involved with passing the Fourteenth Amendment thought about its implications for education.
9. Housing and schooling have become interdependent. The segregation of schools has reinforced segregation in housing, making it likely that a change in school admission policies will have a dramatic effect on neighborhoods, placing a heavy burden on local government to deal with the changes. The local conditions of an area must be taken into consideration.

## Key Excerpts from the Majority Opinion, *Brown I*

The decision was unanimous.

Chief Justice Earl Warren delivered the opinion of the Court.

... Here ... there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications, and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of these cases. We must look instead to the effect of segregation itself on public education. ...

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. ... Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. ...

To separate them [children in grade and high schools] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone. ... Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. ...

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and other similarly situated ... are ... deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

After the decision in *Brown* was reached, the Court decided a companion case *Bolling v. Sharpe* regarding the same issue of segregation in the District of Columbia. The Court notes first that although the Fourteenth Amendment is only applicable to states, the Fifth Amendment is applicable to the District of Columbia. The Court then held that while the Fifth Amendment does not contain an equal protection clause it does contain a due process clause, the concepts both stemming from the American ideal of fairness, and discrimination can be so unjustifiable it can be deemed violative of due process.

### Questions to Consider:

1. In Chief Justice Warren's opinion, how valuable is education? Why?
2. What does the Court mean by the "tangible" factors of equality? Are these tangible factors the only factors the Court considered when determining whether the Fourteenth Amendment was violated?
3. According to the Supreme Court of the United States, what "intangible" factors play a role in whether school facilities are truly equal?
4. Can you find any weaknesses in the basis of the Court's decision?
5. What would your school be like if *Brown* had been decided differently and *Plessy* had never been reversed? How would education be different for white and African American students?
6. Do you think that there are still consequences resulting from schools being segregated in the past?