

# Equality

# What does “equality” mean?

- People being treated the same
- Similar access to opportunities
- “Substantive” equality
- Legal / Social / Economic / Political / Religious
- Question of equity? Never total equality

**How did state constitutional  
guarantees differ?**

# Tiers of scrutiny

# Rational basis

Applies when no suspect classification is at issue.

To survive judicial review, the law must serve a *legitimate* government interest and there must be a *rational connection* between the law's means and that interest.

# Intermediate scrutiny

Applies to quasi-suspect classifications such as gender.

To survive judicial review, the law must further an *important* government interest and must do so by means that are *substantially related* to that interest.

# Strict scrutiny

Applies to suspect classifications such as race, national origin, and religion.

To survive judicial review, the law must further a *compelling* government interest and law must be *narrowly tailored* to achieve that interest.

# Malabed v. North Slope Borough

70 P.3d 416 (Alaska 2003)

*Important Precedent:*

Morton v. Mancari

417 U.S. 535 (1974)



“[A]ll persons are equal and entitled to equal rights, opportunities, and protection under the law.”

Article I, § 1, Alaska Const.

“No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin.”

Article I, § 3, Alaska Const.

# Three-step sliding scale test

1. Weight of the interest impaired
2. Importance of purpose behind government action
3. Means-to-end fit

# Commonwealth v. Penn. Interscholastic Athletic Ass'n

334 A.2d 839 (Pa. Commw. Ct. 1975)

“Girls shall not compete or practice against boys in any athletic contest.”

Athletic Association by law.

“Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual.”

Art. I, § 28, Penn. Const.

# State v. Rivera

612 P.2d 526 (Haw. 1980)

“Equality of rights under the law shall not be denied or abridged by the State on account of sex.”

Art. 1, § 21, Hawaii Const.

# Conceptions of Equality

Equal treatment → Non-discrimination from the state

Equal opportunity → Minimum state obligation to address existing inequality

Equal outcome → State guarantee to fix existing inequality

# Driscoll v. Corbett

69 A.3d 197 (Pa. 2013)

“Justices, judges and justices of the peace shall be retired upon attaining the age of seventy years.”

Article V, Pennsylvania Const.

“All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.”

Article I, §1 Pennsylvania Const.

# Arneson v. State

864 P.2d 1245 (Mont. 1993)

Can receive increase

IF retired AND (retiree or beneficiary) is 55 or older

IF not retired AND receiving disability or survivorship benefits

“The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws.”

Art II. § IV Montana Const.

# Gartner v. Iowa Dep't of Public Health

830 N.W.2s 335 (Iowa 2013)

“All men and women are, by nature, free and equal.”

Iowa Const. Art 1. § 1

“All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.”

Iowa Const. Art 1. § 6

# Three Justifications

1. Accuracy

2. Efficiency

3. Paternity

# **AFSCME Iowa Council 61 v. State**

928 N.W.2d 21 (Iowa 2019)

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# Justifications

1. Labor peace
2. Health and safety
3. Justification for 30% line: Need to draw it somewhere

# *Aztec Municipal Schools v. Cardenas*

549 P.3d 488 (N.M. 2024)