

# AERA NEWS

## American Educational Research Association

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For Immediate Release

### **AERA Scholar Examines Historical Record Behind a “Color-Blind” Constitution**

WASHINGTON, July 30, 2007—James D. Anderson, noted historian of education, examines issues of equality and diversity in the context of the Fourteenth Amendment and in light of the recent U.S. Supreme Court decision prohibiting race-conscious school assignment. His article, *Race-Conscious Educational Policies Versus a “Color-Blind Constitution”: A Historical Perspective*, appears in the current issue of *Educational Researcher*, a peer-reviewed journal of the American Educational Research Association.

Recent political discourse has centered on the question of whether or not the U.S. Constitution is a color-blind document. Following the Court’s ruling that denied the consideration of race in school assignment, some historians, social scientists, and Supreme Court justices have suggested that the U.S. Constitution is a “colorblind” document. Others contend that contemporary race-conscious policies are consistent with the original intent of those who passed the Fourteenth Amendment.

Anderson, Edward William and Jane Marr Gutsell Professor of History of American Education and head of the Department of Educational Policy Studies, University of Illinois at Urbana-Champaign, states, “This essay has one major theme, to examine a central argument in contemporary desegregation and affirmative action lawsuits, including the Louisville and Seattle school desegregation cases just decided by the U.S. Supreme Court on June 28, 2007. The central question is whether the use of racial classifications to achieve school desegregation and diversity violates the Fourteenth Amendment.”

In a review of discussion that preceded passage of the Fourteenth Amendment, as well as the Civil Rights Act of 1866, the Naturalization Act of 1870, and the Civil Rights Act of 1875, Anderson finds “arguments on behalf of color-blind constitutionalism incongruous with the beliefs and behavior of the Reconstruction Congress.”

“A major problem contributing to the misunderstanding of Reconstruction legislation as colorblind constitutionalism is the tendency to focus almost exclusively on the response of Congress to the plight of African Americans in the Confederate states....The binary framework of Black-White relations conceals the broader concerns about American Indians and Asians that also played a significant role in defining the new standards of citizenship and equal rights.”

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Looking back at the broad legislative record of the Reconstruction Congress between 1865 and 1875, Anderson finds that legislators at the time left the basic constitutional question unresolved, the evidence inconclusive as to permissible use of racial classifications by government agencies.

“Much like the Reconstruction generation, we are constrained primarily by our own sense of social justice and our understanding of the ways in which racial discrimination and subordination have shaped the society in which we live,” Anderson concludes.

Through careful historical study, Anderson’s article debunks the myth that the Constitution was intended to be color-blind. To rely on history for that purpose distorts the historical record.

—AERA—

**Editor’s Note:** The full text of Anderson’s article, “Race-conscious Educational Policies Versus a ‘Color-Blind’ Constitution: A Historical Perspective” is posted on the AERA Web site: [www.aera.net](http://www.aera.net)  
[http://www.aera.net/uploadedFiles/Publications/Journals/Educational\\_Researcher/3605/07EDR07\\_249-257.pdf](http://www.aera.net/uploadedFiles/Publications/Journals/Educational_Researcher/3605/07EDR07_249-257.pdf)

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*The American Educational Research Association (AERA) is the national interdisciplinary research association for approximately 25,000 scholars who undertake research in education. Founded in 1916, AERA aims to advance knowledge about education, to encourage scholarly inquiry related to education, and to promote the use of research to improve education and serve the public good.*