Equality Rights in the Charter:

Section 15 of the *Canadian Charter of Rights and Freedoms* came into effect on April 17, 1985; three years after the rest of the *Charter* took effect. This delay came as a result of the fact that the framers of the Canadian constitution felt that governments would require a certain length of time to ensure that both federal and provincial legislation did not unduly conflict with the equality rights provision of the *Charter*.

Section 15 reads as follows:

*15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.  (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability*

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Subsection (2) of section 15 allows for the existence of affirmative action programs. By definition, affirmative action programs exist to correct past discrimination against women and minority groups (groups which traditionally or historically were at a disadvantage) through measures designed to improve their economic and educational opportunities. Most commonly, you will see evidence of the existence of affirmative action policies in advertisements for government employment opportunities, including Crown corporations (e.g., Canada Post) and other government-run or government-funded institutions such as hospitals and universities.

The Federal government mandated its policy of affirmative action by means of a variety of programs. Among these programs is the Federal Contractors’ Program, which applies to provincially regulated employers who receive federal government goods or services contracts of $200,000 or more. This program applies especially to hospitals and universities looking for research dollars. In order to qualify for government funds, these employers must certify in writing not only that they attempt to recruit women and visible minorities in their hiring practices, but that they are committed to meeting certain quotas in hiring.

Be Prepared to Discuss the Following Questions:

1. *Identify and consider the benefits of affirmative action programs. What positive effects do such programs have on society? Discuss what you believe is the major benefit provided by such programs and to whom.*
2. *Identify and consider the failures of affirmative action programs. Rather than foster inclusion, do these policies actually represent reverse discrimination? Do they create an environment in which we accept mediocrity? Is there a perception that hiring practices are not based on qualifications, but rather on status as a member of a disadvantaged group? Discuss what you think is the major failing of affirmative action programs and to whom.*