Absent a finding of discrimination as in Bullilove, we have had no occasion to consider whether a fixed quota of hiring preference comports with the Equal Protection Clause. Such a quota is to be distinguished from hiring goals adopted as a means of achieving a fairer and more balanced work force.
The term "narrowly tailored" so frequently used in our cases, has acquired a secondary meaning. More specifically, as commentators have indicated, the term may be used to require consideration whether lawful alternative means could have been used. Or, as Professor Ely has noted (see below), the classification at issue must "fit" with greater precision alternative means. In this case, for example, the use of hiring goals that do not involve the laying off of innocent individuals is now widely used.
Note to Mike:

You may recall that Justice O'Connor does not like our use of the term "narrowly tailored" in this case. She thinks it can be fairly argued that the plan adopted by the Board was narrowly tailored. Although I disagree with her, I think it is desirable to have her concern in mind. I have never liked the term "narrowly tailored" because it reminds me that I have had my trousers "narrowly tailored" when they were 20 inches at the bottom rather than the fashionable 16 inches. The above language, with appropriate changes, could be worked into footnote 6 - possibly as the leading sentences, and with appropriate changes in what we now have in footnote 5. This is quite an important note.
We therefore hold that, as a means of accomplishing purposes that otherwise may be legitimate, the Board's layoff plan is unnecessarily burdensome. Other, less burdensome means of accomplishing similar goals—such as the adoption of hiring goals on indeed the Board's hiring program in this case—are available.

Note to Mike:

I suggest the foregoing—or similar language—as a substitute for the second and third sentences on page 12. I would retain footnotes 9 and 11 as I have lightly
edited them. I am inclined either to omit footnote 10 or move it to another place in the opinion. It seems unnecessary as a footnote to the final paragraph in our opinion.
The inclusion of "Orientals" and "persons of Spanish dissent" as "minorities" illustrates the undifferentiated nature of the Board's rule. The term "Orientals" includes more than a billion people, including many of ancient civilizations who have never been discriminated against in this country. Similarly, to brand all "persons of Spanish dissent" as minorities who have suffered societal discrimination is without foundation in fact. Perhaps the intention was to focus on immigrants and possibly undocumented aliens from Spanish-American countries in his hemisphere. But to imply that all persons of Spanish dissent have been the victims of societal discrimination
is unsupportable and could well be offensive. There is no explanation of why the Board chose to include these extremely broad categories, or how members of some of the categories could ever be identified. Moreover, respondents have never suggested – much less formally found – that the Board ever engaged in prior, purposeful discrimination against members of each of these groups.