

Affirmative Action

Affirmative action policies are those in which an institution or organization actively engages in efforts to improve opportunities for historically excluded groups in American society.

Affirmative action policies often focus on employment and education. In institutions of higher education, affirmative action refers to admission policies that provide equal access to education for those groups that have been historically excluded or underrepresented, such as women and minorities. Controversy surrounding the constitutionality of affirmative action programs has made the topic one of heated debate.

Background on Affirmative Action

Affirmative action is an outcome of the 1960's Civil Rights Movement, intended to provide equal opportunities for members of minority groups and women in education and employment. In 1961, President Kennedy was the first to use the term "affirmative action" in an Executive Order that directed government contractors to take "affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." The Executive Order also established the President's Committee on Equal Employment Opportunity, now known as the Equal Employment Opportunity Commission (EEOC).

Affirmative action policies initially focused on improving opportunities for African Americans in employment and education. The Supreme Court's *Brown v. Board of Education* decision in 1954 outlawing school segregation and the Civil Rights Act of 1964 improved life prospects for African Americans. In 1965, however, only five percent of undergraduate students, one percent of law students, and two percent of medical students in the country were African American. President Lyndon B. Johnson, an advocate for affirmative action, signed an Executive Order in 1965 that required government contractors to use affirmative action policies in their hiring to increase the number of minority employees.

In the following years, colleges and universities began adopting similar recruitment policies, and over time the enrollment rates for African American and Latino students increased steadily. Despite the efforts that have been made to establish equal opportunity, gaps in college enrollment between minority and white students remain.

According to data from the National Center on Education Statistics (NCES), in 2007, 70 percent of white high school graduates immediately enrolled in college, compared to 56 percent of African American graduates and 61 percent of Hispanic graduates. More recent data from NCES reports some changes in this gap, most notably for African American students. The updated report finds that in 2011, 69 percent of white high school graduates immediately enrolled in college, compared to 65 percent of African American graduates and 63 percent of Hispanic graduates.

The Affirmative Action Debate

The use of race as a factor in the college admissions process has been, and continues to be, a hotly debated topic. Below you will find arguments for and against the enforcement of Affirmative Action.

Supporters of affirmative action make the following arguments:

Affirmative action is more of a process than just an admissions policy. Colleges and universities reach out to groups that are underrepresented and urge students to apply. Institutions often offer financial

aid to underrepresented students and provide on-campus support programs to improve their academic success.

Affirmative action programs have resulted in doubling or tripling the number of minority applications to colleges or universities, and have made colleges and universities more representative of their surrounding community. Statistics show that after California abolished its affirmative action programs in 1998, the minority student admissions at UC Berkeley fell 61 percent, and minority admissions at UCLA fell 36 percent. After Texas abolished its affirmative action program in 1996, Rice University's freshman class had 46 percent fewer African-Americans and 22 percent fewer Hispanic students.

Graduates who benefited from affirmative action programs say that they have received better jobs, earned more money, and ultimately are living better lives because of the opportunity they received.

Diversity in higher education provides an educational advantage for all students, both personally and intellectually. We exist in a global, multicultural society, and in order to achieve success, employers and employees must be able to work effectively with the diverse society that surrounds them.

Affirmative action policies are necessary in order to compensate for centuries of racial, social, and economic oppression. Generally, individuals with higher socioeconomic status have more opportunities than those from lower socioeconomic backgrounds. Supporters believe that certain racial or ethnic groups are disadvantaged because they are frequently in lower income brackets and consequently are not exposed to the same resources as students from higher socioeconomic classes. Advocates support the notion of competition between students based on merit, but argue that affirmative action compensates for economic disparities.

Critics of affirmative action make the following arguments:

Affirmative action was created to ensure fair admission practices and to rectify a long period of racial discrimination. The policy is outdated, however, and causes a form of reverse discrimination by favoring one group over another, based on racial preference rather than academic achievement. Further, there is concern that minority groups may be stigmatized and treated differently by peers and professors who may believe that the success of minority groups in higher education institutions is unearned.

Affirmative action may be unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Likewise, the programs may be illegal under Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color or national origin by recipients of federal financial assistance.

Affirmative action policies lower standards and make students less accountable. If standards for test scores, grade point average, etc. are lowered for underrepresented groups, it is argued that these students will only strive to meet the lower requirements.

Affirmative action policies do not necessarily help economically disadvantaged students. A study by the Hoover Institution found that affirmative action tends to benefit middle- and upper-class minorities.

Many opponents believe that diversity in higher education is extremely important, but that affirmative action only serves to amplify racial prejudice. Because there is no correlation between skin color and intelligence, affirmative action programs are unnecessary. Moreover, affirmative

action programs are condescending to the underrepresented groups since it is implied that the groups need affirmative action in order to succeed in higher education.

States should focus on other policies or programs that encourage equal opportunity, such as setting high expectations for all students and improving their college readiness.

Historic Court Case:

Regents of the University of California v. Bakke (1977 & 1978)

Facts of the Case

Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of California Medical School at Davis. He was rejected both times. The school reserved sixteen places in each entering class of one hundred for "qualified" minorities, as part of the university's affirmative action program, in an effort to redress longstanding, unfair minority exclusions from the medical profession. Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years Bakke's applications were rejected. Bakke contended, first in the California courts, then in the Supreme Court, that he was excluded from admission solely on the basis of race, therefore becoming a victim of "reverse discrimination".

Question

Did the University of California violate the Fourteenth Amendment's equal protection clause, and the Civil Rights Act of 1964, by practicing an affirmative action policy that resulted in the repeated rejection of Bakke's application for admission to its medical school?

Conclusion

Decision: Five in favor of Bakke to four against his argument

Legal provision: Equal Protection.

Split Vote

There was no single majority opinion. Four of the justices contended that any racial quota system supported by government violated the Civil Rights Act of 1964. Justice Lewis F. Powell, Jr., agreed, casting the deciding vote ordering the medical school to admit Bakke as their quota system clearly kept qualified candidates from entering based solely on race.