

AFFIRMATIVE ACTION

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1. Core Definition

Affirmative Action refers to a collection of policies and practices, predominantly established in the United States, designed to eliminate unlawful discrimination against protected classes--specifically racial and ethnic minorities, women, and persons with disabilities--and to remedy the effects of past systemic discrimination. Unlike basic non-discrimination laws, which require neutrality, **Affirmative Action** mandates proactive steps toward ensuring equal opportunities in employment, government contracting, and educational admissions. This concept centers on the belief that simply stopping discriminatory practices is insufficient; active measures must be taken to create a diverse and representative workforce and student body, thereby addressing entrenched institutional biases that perpetuate inequality.

In the context of US federal regulation, Affirmative Action often applies specifically to employers holding contracts with national government organizations. These entities are typically required to devise and implement comprehensive, measurable plans detailing their strategies for recruiting, training, and promoting individuals from underrepresented backgrounds. The core purpose is to push for unwavering and alike opportunities across all organizational levels, making it mandatory for certain institutions to develop explicit strategies aimed at increasing the representation of specific groups who have historically been excluded or disadvantaged.

The policy operates through various mechanisms, which may include targeted outreach, structured training programs, and the establishment of diversity goals, though not legally binding quotas. The underlying philosophy recognizes that historical socioeconomic disadvantages and discriminatory barriers prevent certain individuals from accessing opportunities even when theoretically qualified. Therefore, **Affirmative Action plans** attempt to level the playing field by encouraging the documentation and recognition of achievements by people from less-than-advantageous backgrounds, enabling them to pursue their objectives in competitive environments.

2. Etymology and Historical Development

The phrase **Affirmative Action** was formally introduced into US legal vocabulary by President John F. Kennedy in 1961 through Executive Order 10925. This order required government contractors to "take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, creed, color, or national origin." Initially, the concept was focused on ensuring non-discriminatory hiring processes.

The scope was significantly expanded under President Lyndon B. Johnson with Executive Order

11246 in 1965. This order required federal contractors to not only avoid discrimination but also to establish specific procedures for ensuring equal opportunity, thereby institutionalizing the requirement for proactive planning. This move shifted the focus from merely passive compliance to active efforts aimed at inclusion. The subsequent passage of the Civil Rights Act of 1964 provided the broad legal framework (specifically Title VII) that prohibited employment discrimination, paving the way for the enforcement mechanisms of Affirmative Action policies overseen by agencies like the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP).

Throughout the late 1960s and 1970s, the application of AA broadened from federal employment to public education, notably following directives from the Department of Health, Education, and Welfare (HEW). This expansion led to significant legal challenges that tested the constitutionality of using race or gender as factors in admissions and hiring, resulting in a complex and evolving judicial history that defined the limits and permissible methods of implementation. The historical development shows a transition from general mandates toward highly specific, court-vetted procedures designed to withstand scrutiny while pursuing diversity objectives.

3. Legal Framework and Mandates

The legal framework for Affirmative Action rests on a combination of executive orders, statutory law (primarily the Civil Rights Act), and pivotal Supreme Court decisions. The primary enforcement mechanism for employment AA is Executive Order 11246, which applies to companies holding significant federal contracts. These companies must create and submit detailed **Affirmative Action Plans (AAPs)** annually to the OFCCP. These plans must analyze the company's workforce composition compared to the relevant labor pool and identify areas where protected groups are underrepresented.

In the realm of higher education, the legality of Affirmative Action has been defined by a series of landmark Supreme Court rulings. The 1978 case of Regents of University of California v. Bakke struck down the use of rigid quotas but permitted race to be considered as one of several factors in admissions to achieve the compelling interest of a diverse student body. This principle was largely reaffirmed in the 2003 case Grutter v. Bollinger, which emphasized the educational benefits of diversity as a justification for race-conscious admissions practices, provided the process was narrowly tailored.

However, the legal landscape underwent a monumental shift with the 2023 ruling in **Students for Fair Admissions, Inc. v. President and Fellows of Harvard College**, which effectively ruled that race-conscious admissions policies used by Harvard and the University of North Carolina violated the Equal Protection Clause of the Fourteenth Amendment. This decision severely curtailed the ability of most American universities to use race as a specific factor in their admissions processes,

forcing institutions to seek race-neutral alternatives to promote diversity, though it did not directly overturn the employment mandates under Executive Order 11246.

4. Key Mechanisms and Implementation

The implementation of Affirmative Action requires specific, actionable steps, moving beyond passive compliance with non-discrimination laws. These mechanisms are designed to dismantle systemic barriers and include both quantitative analysis and qualitative program development. The core components of an AAP typically include a workforce analysis, identification of underutilization, establishment of reasonable diversity goals and timetables, and detailed descriptions of specific actions to be taken.

Targeted Recruitment and Outreach: Companies and institutions must actively seek candidates from underrepresented groups by engaging with organizations, schools, and communities traditionally overlooked. This ensures that the pool of potential applicants reflects the available qualified labor market.

Training and Mentorship Programs: AA often involves creating specialized training and educational programs aimed at developing the skills of existing employees or new recruits from disadvantaged backgrounds, thereby facilitating their professional advancement and addressing potential gaps caused by unequal educational access.

Review of Selection Criteria: A crucial mechanism involves scrutinizing existing employment and admissions criteria to ensure they are job-related or educationally necessary and do not unintentionally screen out qualified minority or female applicants. For instance, removing requirements that correlate highly with privilege but poorly with job performance.

Goal Setting (Not Quotas): Institutions set measurable objectives or goals for increasing representation in areas of underutilization. These goals are distinct from illegal quotas; they are targets based on availability and required good-faith efforts, rather than hard, mandatory numerical requirements.

5. Goals and Objectives

Affirmative Action policies are generally driven by two overarching philosophical goals: remedial justice and the enhancement of diversity.

The goal of **remedial justice** aims to correct the enduring economic and social harms inflicted by historical discrimination, such as slavery, Jim Crow laws, and gender exclusion. Advocates argue that because certain groups faced generations of legalized disadvantage--which severely limited their wealth accumulation, educational opportunities, and access to professional networks--simple color-blind policies today cannot undo the compounding effects of that history. Therefore, Affirmative Action serves as a necessary intervention to compensate for structural inequities and

provide groups with a fair chance to catch up.

The goal of **diversity enhancement**, particularly prevalent in educational and corporate settings, posits that a heterogeneous environment leads to better outcomes. In education, exposure to students of varying backgrounds enhances classroom discussion and prepares students for a diverse globalized workforce. In business, diverse teams are often credited with increased innovation, better problem-solving abilities, and a deeper understanding of varied consumer markets. By urging people from less-than-advantageous backgrounds to document their achievements, Affirmative Action aims to ensure that merit is recognized broadly, regardless of social origin.

6. Significance and Societal Impact

Affirmative Action has fundamentally altered the demographic composition of professional fields and higher education in the United States since the 1970s. Its immediate significance lay in opening up previously closed avenues of opportunity, especially for African Americans and women, who saw measurable increases in their enrollment in professional schools (law, medicine, business) and their employment in senior corporate and governmental roles.

The policy also had a profound, long-term impact on institutional culture. By mandating the creation of diversity plans, it forced organizations to acknowledge systemic disparities and develop institutional infrastructure (such as diversity officers and equity committees) dedicated to inclusion. This normalization of diversity planning has extended beyond the initially targeted groups, benefiting immigrants, LGBTQ+ individuals, and other groups who advocate for increased representation and fairer treatment in the workplace.

Despite its controversial nature, **Affirmative Action** served as a crucial catalyst for establishing institutional accountability regarding equal opportunity. It provided the legal teeth necessary for government oversight, ensuring that contractors and recipients of federal funding upheld non-discrimination standards through verifiable action rather than mere statements of intent, ultimately shaping modern American norms of corporate responsibility and social equity.

7. Debates and Criticisms

Affirmative Action remains one of the most contentious public policies in American history, largely due to concerns over fairness and the principle of meritocracy. The central criticism revolves around the concept of **"reverse discrimination."** Critics argue that when race or gender is used as a factor in admissions or hiring, it leads to qualified majority applicants (often white or Asian men) being denied opportunities in favor of less-qualified minority applicants simply to meet diversity goals.

This challenge is exemplified by the common perception, as illustrated in the source content, where an individual like Scott suspects he "didn't get the job, even when more than qualified, because of affirmative action policies which mandated that the company hire a certain number of minorities." This highlights the fear that AA compromises the principle of meritocracy and can lead to resentment and perceived injustice among those who believe they were disadvantaged by policies intended to aid others.

Additional criticisms include the argument that AA policies can stigmatize their beneficiaries, suggesting that individuals hired or admitted under these policies may be viewed by colleagues as less competent or only token representatives. Furthermore, opponents argue that the focus should be entirely on socioeconomic status rather than race, suggesting that class-based policies are a more effective and less legally fraught means of achieving true equity without engaging in racial classifications that run counter to a color-blind interpretation of the Constitution. These vigorous debates continue to shape public policy and judicial review, particularly in the wake of recent Supreme Court restrictions.

Further Reading

[U.S. Equal Employment Opportunity Commission \(EEOC\) - Affirmative Action](#)

[Office of Federal Contract Compliance Programs \(OFCCP\)](#)

[Oyez: Regents of Univ. of California v. Bakke \(Case Summary\)](#)

[Wikipedia: Affirmative Action in the United States](#)