

## AFFIRMATIVE ACTION AND ITS FUTURE

*by John D. Skrentny, University of California, San Diego*

“Affirmative action” refers to rules and practices intended to give a boost to the formerly excluded and make America more equal for women and people of disadvantaged racial groups. Media attention often focuses on affirmative action in university admissions, but similar practices are found in a wide range of institutions, from government and private-sector employment offices to programs that disperse grants and contracts. In all cases, affirmative action promotes equal opportunity without spending much money.

But political controversies swirl around affirmative action – and opponents have pressed challenges in the courts. The Supreme Court will soon rule on a legal challenge to the admissions policies of the University of Texas – and the results may reverberate widely. This is a good time to clarify what affirmative action accomplishes and consider if alternatives might work.

### How Affirmative Action Works

Affirmative action always involves making sure opportunities are known by broad circles of people so a wide range of applications can be considered. Sometimes it also means that preferences are given to minorities or women who have qualifications comparable to, or almost as good as, traditionally successful applicants.

- In university admissions, affirmative action usually means that each applicant gets a “holistic review” of all that he or she might bring to the table – accomplishments, leadership skills, test scores, and perhaps an underrepresented social background or identity. Many universities believe education is better when students have diverse backgrounds and experiences. No laws require universities to take this approach. In 2003, the Supreme Court ruled that racial “diversity” could be a compelling interest that justified using race as a “plus factor” – but not an automatic ticket to admission or other opportunities.
- In employment, many firms voluntarily use affirmative action. Legal rules specify that actual preferences are acceptable only if the firms are trying to repair an imbalance – for example, in an overwhelmingly white or male accounting department in a firm where other departments are more inclusive. Even when repairing imbalances, firms cannot bar hiring or promoting people from one race or gender.
- The federal government requires firms awarded contracts to use affirmative action. Affected firms employ about one-quarter of U.S. workers, and do things ranging from building roads to supplying paper towels, computers, and fighter jets. To be eligible for contracts, firms must try to hire minority and women workers in proportion to their presence in the qualified applicant pool.

- Governments also promote equal opportunities to own and operate businesses. “Set aside” rules encourage some taxpayer money to be used for contracts with minority or female-owned companies that are qualified to do the job. The Supreme Court has ruled that set-asides are constitutional only if minority-owned firms faced proven discrimination in the past.

### Why Affirmative Action is Controversial

Polls typically show that about two-thirds of Americans support “affirmative action,” but about the same percentage opposes “racial preferences.” Some argue that Americans believe in pure meritocracy – that people should get ahead at school, work, and business based only on abilities and competitive performance. But studies show that most people also tap their connections; they don’t only rely on performance in an Olympics-style contest of pure ability.

If Americans really cared so much about purely meritocratic competition, we would expect more outcries about the use of social connections. We would also expect to hear complaints about university preferences for athletes or children of alumni, or outcries about small business owners who hire family members, or even resistance to special efforts to hire military veterans for government or even private-sector jobs. It is hard to avoid the conclusion that affirmative action is unusually controversial, not because it violates pure norms of meritocracy, but because it gives an extra leg up to excluded groups, especially African Americans.

### What are the Alternatives?

Whatever the merits, debates about alternatives to affirmative action will continue, and the Supreme Court may narrow the scope or rule it out. So what are the alternatives?

- Many suggest that racial inequality needs to be addressed early in life, not when older people apply for college or jobs. Why give preferences to minorities with lower test scores, they ask, when we should be boosting everyone’s scores so affirmative action is not needed? We should keep in mind, however, that fixing family disadvantages can be very complicated and expensive. The effects of such disadvantages tend to compound and get worse as children grow up, and they tend to get passed from parents to children. Because racial minorities tend to be poor, waiting for test scores to equalize could delay a more equal society for a long time. Affirmative action, by contrast, amounts to a relatively inexpensive set of adjustments that can be applied quickly, bit by bit, throughout life.
- Others suggest we should stress “class-based affirmative action” but not use preferences for women or minorities from privileged families. President Obama, for example, has said it would be unfair for his daughters to be given preference over a promising child from a low-income white family. In response, supporters of traditional affirmative action argue that even well-to-do women and minorities tend to be excluded or subtly disadvantaged by longstanding stereotypes or insider practices by establishments that feel more comfortable with others like themselves. To change such realities, supporters of affirmative action argue, people formerly excluded by race and gender still need extra consideration and an occasional leg up.

As these back-and-forth arguments suggest, issues about affirmative action stand at the heart of American identity, and it is not easy to find alternatives even to controversial practices. Ongoing debates force us to think through carefully what – if anything – we are willing to do to promote equal opportunity and ensure America today and tomorrow is not a society stratified and divided by race or gender.