

## **OPPOSE Anti-Affirmative Action HB 440**

House Bill 440 attempts to roll back key civil rights protections for protected classes in Idaho. The bill would prevent employers, educational institutions and contractors from providing “preferential treatment” based on sex, race, national origin, religion, age, and disability.

Affirmative action is one of the most effective tools for redressing the injustices caused by our nation's historic discrimination against people of color and women, and for leveling what has long been an uneven playing field. A centuries-long legacy of racism and sexism has not been fully eradicated despite the gains made during the civil rights era. Avenues of opportunity for those previously excluded remain far too narrow. We need affirmative action now more than ever, and polling shows that the majority of the American public supports it.

Supporters of this bill have misconceptions about what affirmative action is. We’re here to dispel those myths.

### **MYTH: Affirmative action is “preferential treatment”**

**FACT:** Affirmative action creates fair competition by removing the barriers that obstruct the lanes for women and minorities in the race toward the American Dream.

- Access to the American Dream is often framed as a fair race in which the swiftest runners win. Critics say we should eliminate affirmative action because it gives some runners an unfair head start in an otherwise fair race. What if we begin with the observation that the lanes on the track used by the runners are fundamentally unequal — that some lanes are unobstructed while others are virtually impassable? From this perspective, we can see that policies that promote inclusion, like affirmative action are designed to equalize the conditions of a previously unfair race.
- While most people of color are keenly aware of such disparities, many whites are not. A poll commissioned by The National Conference, a workplace diversity organization, found that 63% of whites thought African Americans have equal opportunity, whereas 80% of African Americans felt they do not.

### **MYTH: Affirmative action supports “color-blindness,” which Dr. Martin Luther King, Jr. promoted**

**FACT:** Dr. Martin Luther King, Jr. supported affirmative action.

- Opponents of affirmative action insist that they uphold Martin Luther King Jr.’s dream of a world in which people are judged not by the color of their skin, but by the content of their character. But Dr. King never believed that racial inequality could be eliminated by ignoring race and racism in America. In fact, he supported affirmative action, and advocated the use of targeted race-, gender- and class-conscious measures to ensure equal opportunities for all people.<sup>1</sup>
- Although he went on to be one of the most gifted orators of the 20th century, Dr. Martin Luther King, Jr. scored very poorly on a standardized verbal test in his youth. Research has shown that such tests and similar criteria are often biased and underestimate the capabilities of working



Idaho

ACLU of Idaho  
PO Box 1897  
Boise, ID 83701  
(208) 344-9750  
[www.acluidaho.org](http://www.acluidaho.org)

class individuals, women, and people of color, and that they do not accurately predict professional or educational success.

**MYTH: Affirmative action means quota programs.**

**FACT:** Rigid quotas have been unconstitutional for decades.

- Affirmative action programs today are designed to promote diversity and to remedy specific forms of unfair competition with no “quotas”.
- Affirmative action programs take many forms — including outreach, recruitment efforts and the use of non-traditional criteria for hiring and admissions. But despite the many forms that affirmative action may take, such programs do not require or permit the use of quotas.

**MYTH: Affirmative action is no longer needed in America; equal opportunity prevails in our meritocracy.**

**FACT:** Racial and sexual inequality are still prevalent. In the face of such inequalities existing, treating everyone fairly does not mean that we should treat everyone the same.

- Avoiding discussions of race and sex doesn’t erase discrimination; instead it ignores the ways in which deep-seeded structural racial and gender inequality impacts individuals. And in states where race-based affirmative action policies have been banned, there have been devastating impacts, such as decreases in black and Hispanic educational opportunities.<sup>2</sup>
- Women still make less money than their male counterparts. In Idaho, women earn \$0.76 cents for every dollar that men earn—and the state’s pay gap has only [widened](#) since 2013.
- Nationally, minority women earn as little as 54 cents to every man’s dollar. College-educated African-American women earn only \$800 more every year than white men with only a high school degree, and \$17,727 less than college-educated white men.
- A recent study showed that job applicants with “white-sounding names” were twice as likely to be called back for interviews as applicants with “black-sounding names” who had the same qualifications.<sup>3</sup> Another study found that a white job applicant with a criminal record was more likely to receive a second interview than a similarly qualified African American applicant with no criminal record. Policies that address only class issues cannot address such injustices, and are not sufficient to combat the barriers limiting opportunities for racial minorities.

1. Dr. Martin Luther King, Jr., “Remaining Awake Through a Great Revolution.” Delivered at the National Cathedral, Washington, D.C., March 31, 1968.
2. Munguia, Hayley. “Here’s What Happens When You Ban Affirmative Action in College Admissions.” FiveThirtyEight. <https://fivethirtyeight.com/features/heres-what-happens-when-you-ban-affirmative-action-in-college-admissions/>. 11 February 2020.
3. Bertrand, Marianne, and Sendhil Mullainathan. “Are Emily and Greg More Employable than Lakisha and Jamal? A field experiment on labor market discrimination.” National Bureau of Economic Research, July 2003, [www.nber.org/papers/w9873.pdf](http://www.nber.org/papers/w9873.pdf).