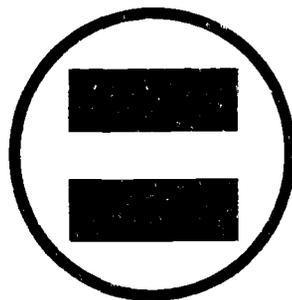


***Affirmative Action:
Pursuit of a Meritocracy***

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The Urban League of Portland

Open Minds Open Doors
Education, Employment, Equality

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Executive Summary

For practitioners, policy makers and citizens, we of the Urban League of Portland believe that discrimination based on race, gender, etc., should not be the sole determinant for precluding someone from equal access and opportunity. The following reasons support this position:

1. They are not absolutes.
2. They are immutable attributes.
3. They silence the conscience to the value and prospect of diversity.

Likewise, the reverse is also true. Race, gender, etc., should be one of many factors prominent in assuring equal access and opportunity for women and people of color. The following three reasons give substance to this conclusion:

1. They alert the conscience to the value of diversity.
2. These distinct and immutable characteristics are represented in our society.
3. Disproportionate representation by persons with one or more of these characteristics have been and are being excluded from equal access and opportunity.

The general purpose of affirmative action is to remedy discrimination, in its many forms, and ensure that true equal opportunity in employment and education exists. Affirmative action does not challenge the concept of a meritocracy, rather, it challenges discriminatory processes which inhibit individual achievement, and in a discriminatory manner, do not adequately measure an individual's merit. This is what affirmative action is about, not quotas, but inclusion, not rigid race or gender preferences, but assuring people of color and women a genuine opportunity to have access, to be judged fairly, to perform and be promoted.

Affirmative action seeks to remedy discrimination. There is evidence that affirmative action is an effective tool against discrimination, and because discrimination still exists in our society, we of the Urban League of Portland do not support any affirmative action.

Oregon is a state richly diverse and valued for heterogeneity of its residents. It is in the public interest of the State to assure that each citizen is treated fairly, provided equal protection of the law and equal opportunity to participate in the benefits, rights, and privileges of community life. Discrimination deprives the citizenry of the bare essentials of life and is detrimental to the public welfare, safety and health of Oregon.

Our state needs strong, visionary leaders in business, industry, government, educational institutions and non-profits to prepare for and champion a multi-cultural community now and in the future. Oregon can take the lead in demonstrating that when comprehensive assessments are made of individuals for opportunities in society, utilizing affirmative action to include race and gender, diversity and multi-culturalism will flourish and help Oregon prosper.

1. Introduction

Prominent voices in the current national debate on affirmative action and its legacy have stimulated an atmosphere of divisiveness which emphasizes differences, rather than similarities of opinion. More often than not the debate is separated into two mutually exclusive camps which pit affirmative action against selection processes based solely on merit. In one camp opponents of affirmative action say people should be selected solely on the basis of merit. In the other camp proponents of affirmative action say that discriminatory processes which exist in our society, past and present, necessitate positive or "affirmative" action as a corrective means to remedy these discriminatory processes.

We often assume that these positions are exclusive of each other. This assumption plays into the hands of opportunistic politicians who seek to divide the electorate and scape goat people of color* and women for economic hardships currently faced by the American worker. But upon revisiting how we define merit, and the meaning of affirmative action, we find that these camps are not exclusive, but share much in common.

We of the Urban League of Portland are representatives of this common ground. We do believe that people should be selected solely on merit. But as Hugh B. Price, President and Chief Executive Officer of the National Urban League points out, "The crucial question is what we mean by merit and how we even judge who is meritorious." Analysis of this question is essential to an informed and rational debate of affirmative action.

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Consider for a moment the accepted forms of measuring merit for admissions or hiring, such as the SAT, the LSAT, or even the IQ test. Are these really the best indicators of individual merit, or an individual's ability to perform? Recent studies have shown that in the long run they are not. A study of Harvard graduates who had been out of school some thirty years showed that the most successful alumni had lower SAT scores and came from blue collar backgrounds. How does one measure ambition and drive, or even intelligence not reflected by the traditional indicators? Perhaps by taking into account past accomplishments or activities. Perhaps by accounting for circumstances faced by an individual in the past, and his or her ability to overcome them. Circumstances such as low socio-economic status, or even race, in the face of discriminatory processes. Are these not legitimate indicators of drive, ambition, determination, character, and even intelligence?

* For the purposes of this paper "people of color" primarily refers to African Americans and Latinos.

It is important to note that through the promotion of inclusiveness, the implementation of affirmative action has benefited all people, not just people of color and women. Many people who have become gainfully employed, or accepted into an institution of higher learning, in spite of their test scores or grades, but because of individual and specific inquiries into their past, their activities, their service and the circumstances they may have had to face, these people have also benefited from the inclusive agenda of affirmative action. Simply put, by opening the process for people of color and women in many ways, the process for recruitment, acceptance and promotion has been humanized for people in general.

As William Weld, Governor of Massachusetts, states:

"Grit and determination are what merit and character are all about. This country, compared to others, has a proud history of judging people not by how they arrive at birth, but by what they make of themselves. When it works as it should, affirmative action brings this element of grit and determination into higher relief. And grit and determination are just another way of describing the content of our characters."¹

The purpose of affirmative action is to address past and current discrimination and ensure that true equal opportunity in employment and education can exist. Even a cursory glance at the most recent statistics on occupational race and gender segregation and disparities in income between white males and their female and ethnic racial minority counterparts illustrates that discrimination is still an issue in American society. The "playing field" is not yet level. Recent statistics also illustrate that affirmative action has had a positive effect on those it intended to assist in employment and education. Lastly, the occasional anecdotal evidence aside, affirmative action policies have not unduly burdened white males.

While specific affirmative action strategies and policies have and should be debated openly, the politicalization of the debate only drives a wedge between opponents and proponents of affirmative action by highlighting their differences rather than their underlying commonality, which is the pursuit of a meritocracy. A meritocracy in which merit is measured not by tests alone, but also by the grit and determination of the individual.

We at the Urban League of Portland seek the common ground. We support affirmative action as one tool, one strategy, in the ongoing pursuit of our mission, to help African Americans and others achieve parity and economic self-sufficiency. Obviously affirmative action is not a panacea for the persistent poverty that exists in some racial ethnic minority communities. Improved K-12 education is obviously one key element. We support and pursue a meritocracy in which the indicators of merit are not exclusive, but inclusive, a meritocracy in which all people are provided with equal opportunity in employment and education. Affirmative action does not stand in the way of this pursuit, but rather, provides a guiding hand in our quest towards a society truly based on equality and merit.

2. A Brief History of Affirmative Action

Affirmative action is an often misunderstood term which has come to represent much more than the policies, programs and initiatives adopted under its moniker. President Clinton, in his address at the National Archives in Washington D.C. on July 19, 1995 states that:

"The purpose of affirmative action is to give our nation a way to address the systematic exclusion of individuals of talent, on the basis of their gender or race, from opportunities to develop, perform, achieve and contribute. Affirmative action is an effort to develop a systematic approach to open the doors of education, employment and business development opportunities to qualified individuals who happen to be members of groups that have experienced longstanding and persistent discrimination."

Affirmative action is best understood as a continuation of a national effort to address and remedy longstanding and persistent discrimination. This effort has been ongoing throughout our shared history, but some of our most significant gains have been made in the 20th century.

Labor shortages during and immediately after World War II offered African Americans and women a very significant opportunity to expand their employment opportunities. Though many jobs were opening up, and labor shortages were significant, African Americans were still confronting discriminatory practices by defense contractors. A. Philip Randolph successfully lobbied President Roosevelt in 1940 to issue Executive Order 8802, which barred discrimination by race or national origin in industries with government contracts. Executive Order 8802 provided an opportunity to African Americans in employment and led to a massive migration of African Americans from the south to the north to fill jobs in the defense industry (in Oregon, they came to work in the shipyards).

After the war our country saw what some have called the first affirmative action in college admissions, the Servicemen's Readjustment Act of 1944 (the "GI Bill of Rights"). While the GI Bill assisted many more white males than African Americans or women, it did give thousands of African American veterans access to a college education or employment training and access to a low-interest, long-term home loan. The GI Bill allowed many veterans, both white and black, into colleges they were previously barred from by tuition costs and admissions standards. But as has been the case with African Americans and women given the opportunity to perform through affirmative action programs today, veterans in the program reached outstanding levels of academic and professional achievement previously not available to them.

"These two measures of the 1940s – Executive order 8802 and the G.I. Bill – provided the first significant opening of employment and education for blacks since Reconstruction. It was from this threshold that the momentum was generated that led to the civil rights movement and eventually to affirmative action."²

A full history of the civil rights movement is well beyond the scope of this paper, but we can revisit some of its most important milestones – *Brown v. Board of Education* and other cases striking down

segregation, the Civil Rights Act of 1964 and the enactment of Title VII the following year, and of course the Voting Rights Act of 1965 -- all of which helped fulfill the constitutional promise of equal opportunity to people of color and women.

The Civil Rights Act of 1964 established the Equal Employment Opportunity Commission, which is charged with enforcing anti-discrimination laws through the prevention of employment discrimination and resolution of complaints. In 1961 President Kennedy issued Executive Order 10925 which for the first time used the term "affirmative action" to refer to measures designed to achieve non-discrimination. Executive Order 11246, issued by President Johnson in 1965, required federal contractors to take affirmative action to ensure equality of employment opportunity without regard to race, religion or national origin. Gender was added to the protected categories in 1968. Title VII of the Civil Rights Act of 1964, and Executive Order 11246 "...forbid actions, regardless of their intent, that have a disproportionate effect on the basis of race, national origin, and sex and that cannot be justified by any legitimate reason."³

Of course affirmative action has not only taken place because of government mandate. Many private firms throughout the nation have instituted voluntary affirmative action plans. These plans are seen by many firms as essential to their continued competitiveness in the context of a global marketplace and a multi-ethnic and diverse labor force.

Three main rationales for existing affirmative action programs are: compensation for past discrimination, correction of current discrimination and diversification as an end worth pursuing in and of itself. It is important to note that none of the laws reviewed in this section call for "quotas". The only exception to this is in specific legal cases in which courts mandate them based on past active discrimination, other than these cases, in which only judges may impose quotas, they are illegal.

As President Hugh B. Price states, "Properly applied, affirmative action is about inclusion, not quotas. It's about assuring qualified minorities and women a genuine opportunity to perform, not about applying rigid race or gender preferences."

3. Affirmative Action: An Inclusive Remedy to Discrimination

For practitioners, policy makers and citizens, we of the Urban League of Portland believe that discrimination based on race, gender, etc., should not be the sole determinant for precluding someone from equal access and opportunity. The following reasons support this position:

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2. These distinct and immutable characteristics are represented in our society.

Disproportionate representation by persons with one or more of these characteristics have been and are being excluded from equal access and opportunity.

The overriding goal of affirmative action is full inclusion of women and people of color in a prosperous economy, and for all Americans, a prosperous economy which includes everyone.

If this inclusionary vision were already reality, there would then be no reason for affirmative action to continue, but that is not the case. If affirmative action were an ineffective strategy against discriminatory processes which limit opportunity, then it should be abandoned, but it is in fact effective. Lastly, if affirmative action programs placed undue and discriminatory burden upon white males specifically, then it would be right to put an end to it, but a close examination and analysis of disparities that exist and gaps that exist between white males and people of color and women documents that again, this is not the case.

There is ample evidence of continuing discrimination in the work place which limits opportunity. Some examples include:

- Too many people of color and women remain economically disadvantaged: the African American unemployment rate remains over twice the white unemployment rate; 97 percent of senior managers in Fortune 1000 corporations are white males; in 1992, 33.3 percent of African Americans and 29.3 percent of Hispanics lived in poverty, compared to 11.6 percent of whites. In 1993, Hispanic men were half as likely as white men to be managers or professionals; only 0.4 percent of senior management positions in Fortune 1000 industrial and Fortune 500 service industries are Hispanic.

- Blatant discrimination is a continuing problem in the labor market. The most convincing evidence comes from the "audit" studies, in which white and minority (or male and female) job seekers are given similar resumes and sent to the same set of firms to apply for a job. These studies often find that employers are less likely to interview or offer a job to minority applicants and to female applicants.
- Other evidence of discrimination comes from comparisons of earnings of blacks and whites, or males and females. Even after adjusting for characteristics that affect earnings (such as years of education and work experience), these studies typically find that blacks and women are paid less than their white male counterparts.⁴

Detractors say affirmative action does not work. This simply is not accurate. The proof is found every day in the dramatically changed composition of college campuses and corporate work places. In 1961, 134,000 African American students attended predominantly white colleges and universities around the country. Today the number is a stunning 1.2 million African American undergraduates in such schools.

Though disparities still exist in the upper management of Fortune 500 companies, the workforce of every Fortune 500 company is vastly more integrated today. Think back to what it looked like in 1954, the year of the landmark *Brown v. Board of Education* decision that outlawed school segregation. Women and minorities in big corporations back then seldom rose above secretary or messenger. Think, even, of the racial complexion of local police and fire departments in those days. These gains are due in large part to affirmative action efforts and programs initiated by the leadership of organizations, businesses and educational institutions that embraced inclusion, equal access and equal opportunity, for people of color and women with the skill and or potential to succeed.

In the *Review of Affirmative Action: Report to the President*, it states:

Over the past three decades, minorities and women have made real, undisputable economic progress. Before the Civil Rights Act of 1964, the median black male worker earned only about 60 percent as much as the median white male worker; by 1993, the median black male earned 74 percent as much as the median white male. The male-female wage gap has also narrowed since the 1960s: median female earnings relative to median male earnings rose from about 60 percent during the 1960s to 72 percent in 1993.⁵

While discrimination has not been eliminated, important gains have been made in spite of personal, organizational and structural discrimination. To abolish a program that has contributed successfully to greater equality and a healthy and diverse economy would be unfortunate at this time in our history.

One of the most significant claims against affirmative action is that it discriminates against non-beneficiaries or white males (reverse discrimination). While a few affirmative action programs or initiatives may have discriminated against white males, as evidenced primarily by some anecdotal evidence, the vast majority of affirmative action programs do not. The President's recent review of affirmative action (cited hereinabove) concludes "...federal programs are fair and do not unduly burden

non-beneficiaries." A recent internal report prepared for the U.S. Department of Labor concludes that there is no widespread abuse of affirmative action programs in employment and that there are only a small number of reported reverse discrimination cases by white males -- a high proportion of which have been dismissed by federal courts.⁶

Let's be absolutely clear. Where documented unfair practices do exist, we believe they must be corrected. The Urban League of Portland does not support race based quotas or the hiring or admissions of unqualified or unprepared applicants. As with any well developed, well intentioned business practices, there possibly could be abuses. These practices, where well documented, must be halted. However, dismantling the entire affirmative action system causes pause for many to question whether politics is fueling the current debate on affirmative action rather than the rational and prudent pursuit of good public policy.

Affirmative action has been conveniently labeled by its detractors as "a system which promotes racial preference and quotas" but the vast majority of affirmative action programs do no such thing. Affirmative action is a positive strategy which seeks to remedy discrimination past and present. Affirmative action includes recruitment programs, outreach programs, support/mentoring/training programs and remedial or corrective programs. We support these efforts as well as those which take into account race and gender as factors in hiring or admissions to make a comprehensive and fair assessment which also includes potential. We support such activities because we steadfastly believe in more inclusive means of measuring merit than those commonly employed. Only in the most extreme cases of systemic racial discrimination have the courts mandated numerical preferences or quota systems. Otherwise they are illegal.

Affirmative action seeks to remedy discrimination. There is evidence that affirmative action is an effective tool against discrimination, and because discrimination still exists in our society, we of the Urban League of Portland do not support any attempt to dismantle an important effort to promote inclusion and remedy discrimination.

4. Conclusion

We of the Urban League of Portland believe affirmative action has not served as a stumbling block to the pursuit of a true meritocracy in the United States, but has enhanced the ability of women and people of color to display their true merit. We also believe that by promoting more inclusive standards in hiring and admissions, affirmative action has benefited all people.

We support affirmative action as one strategy among many to achieve our mission, which is in short, to help African Americans and others achieve parity and economic self-sufficiency.

We reject the politicalization of this debate by voices seeking to further their own personal agenda by scape goating women and minorities as well as affirmative action efforts.

As President Clinton observes so eloquently:

"It is wrong to use the anxieties of the middle class to divert the American people from the real causes of their economic distress – the sweeping historic changes taking all the globe in its path, and the specific policies or lack of them in our own country that have aggravated those challenges. It is simply wrong to play politics with the issue of affirmative action and divide our country at a time when, if we're really going to change things, we have to be united."

We embrace President Price's and the National Urban League's "Five Commandments for an Inclusive America" which include:

1. The goal is genuine inclusion. We do not condone quotas, but neither will we tolerate tokenism or total exclusion of any segments of American society from the opportunity structure.
2. Only the qualified should be included. Candidates who aren't qualified ought not be in the applicant pool. For those with potential who lack the requisite skills, let there be intensive remediation programs to help them get quickly up to speed so that they too can qualify some day soon.
3. Selection should be based on a broad understanding of what "qualified" and "merit" mean in the real world. Those who do the picking should be free to weigh traditional indicators, such as test scores and grades, along with intangible attributes like grit and determination.
4. Inclusion is morally virtuous, economically advantageous and demographically inevitable. Our population is diverse by definition – 50 percent female, and more and more multi-ethnic by the day. Americans must accept this reality and incorporate it into the allocation of opportunities to learn, work, and do business in our society.

5. To achieve inclusion, those who allocate opportunity should take many factors into account, among them geography, gender, ethnicity, economic status and cultural diversity. Gender or race needn't be the deciding factors, but they definitely should be among the criteria used to overcome exclusion and promote inclusion of all those who are qualified.

Oregon is a state richly diverse and valued for heterogeneity of its residents. It is in the public interest of the State to assure that each citizen is treated fairly, provided equal protection of the law and equal opportunity to participate in the benefits, rights, and privileges of community life. Discrimination deprives the citizenry of the bare essentials of life and is detrimental to the public welfare, safety and health of Oregon.

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Notes

- ¹ Cited in: Hugh B. Price, *Affirmative Action: The Case for Inclusion*, National Urban League, 1995.
- ² Reginald Wilson, "Affirmative Action: Yesterday, Today, and Beyond", American Council on Education, May 1995.
- ³ United States Commission on Civil Rights, *Affirmative Action in the 1980s: Dismantling the Process of Discrimination*, U.S. Government Printing Office, 1981.
- ⁴ All of these examples were cited in: *Affirmative Action Review: Report to the President*, U.S. Government Printing Office, 1995.
- ⁵ Ibid.
- ⁶ See, "DOL Report Finds Little Evidence of Reverse Bias", *Daily Labor Report*, No. 56, March 23, 1995.

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