Judge Henderson and Affirmative Action
A Lesson Plan to Accompany the Film: Soul of Justice

SOUL OF JUSTICE:
THELTON HENDERSON’S AMERICAN JOURNEY
A Film by Abby Ginzberg

2006 Silver Gavel Award Winner

“...a rousing profile in courage”
-Michael Fox, Film Critic

“Fascinating.”
-Pacific Sun

“A powerful documentary”
-San Francisco Chronicle

For use in Grades 11 or 12
U.S. History or American Government classes
Judge Henderson and Affirmative Action

U.S. History or American Government

Duration
Five 55 minute class periods

Materials
- “Soul of Justice” video
- Article “Affirmative Action in the United States”
- Political cartoons
- Six articles on affirmative action
- “By the Numbers” fact sheet
- Knowledge Web
- Chart paper and colored markers

Prior Student Learning
Students should have some knowledge of the history of race relations in the past century

Essential Question for This Unit
How do we learn about racial justice and public policy by using multiple sources and considering diverse points of view?

Objectives
After completing this lesson, students should be able to
- collect, assess, and use information from multiple sources and apply it in oral and written presentations.
- show the connections between particular historical events and larger social developments.
- listen to and build on the ideas of others.
- become aware of, and increasingly control, their own habits of learning and inquiry.

Lesson Springboard
I think people voted for 209 idealistically and generally thought it would produce a fairer system. My conclusion, and the conclusion of many people around me, is that because it has resulted in a dramatic diminution in numbers of particular classes of California citizens, it has in fact created a system that is quite unfair... Instead of ensuring nondiscrimination, Proposition 209 has created an environment that many students of color view as discriminatory. That's because minority representation has dropped appallingly, and where there should be camaraderie across cultural lines, I have seen too much alienation, mistrust and division.

-University of California Chancellor Robert Birgeneau

In 1996, California’s Proposition 209 outlawed affirmative action in public contracts, hiring, and college admissions, threatening the gains won by minorities at great cost during the ’60s. However, Judge Thelton Henderson ruled the proposition unconstitutional. Despite the judge’s concern for impartiality and careful legal reasoning, Republican lawmakers called for his impeachment, denouncing him as a “judicial activist” and working to overturn his decision on appeal.

This lesson invites students to follow in Judge Henderson’s footsteps as they reflect on the hard question of affirmative action from multiple points of view. They are required to interpret a variety of sources and to deliberate together in their effort to reach an understanding of this subject.
Lesson Activities

First Class Period
Students begin by watching the first four parts of the video Soul of Justice, on Henderson’s early career and his role in the Civil Rights Movement (CRM) of the 1960s. (36 minutes) Class discussion is inspired by questions that relate the video to students’ prior lessons on the CRM. At the conclusion of the period, students are assigned as homework an article, “Affirmative Action in the United States,” which introduces the subject and prepares them for the conclusion of Soul of Justice: Henderson’s decision and the furor that surrounded it.

Second Class Period
Students discuss the homework article through a series of questions that they will revisit at the end of the period. Then they view the conclusion of the video Soul of Justice, a 24-minute segment that includes ten minutes on Judge Henderson and Proposition 209. Following the video, students have the opportunity to reexamine the questions raised at the beginning of class.

Third Class Period
Students are assigned to groups of four. Each group gets a set of four different colored markers, a piece of chart paper, texts, and loose leaf paper.

First Round: The Mystery Texts (30 minutes)
Students receive a set of five political cartoons that are pro- and anti-affirmative action. There is a certain ambiguity and even mystery to these cartoons that calls for strong interpretation. The students discuss the cartoons and write one to two paragraphs on loose leaf paper interpreting them. Students then record what they know about the topic of affirmative action in their journals. Remaining in small groups, they share what they know about the topic and, using one of the colored markers, create a “web” showing their collective knowledge of it. (A model for constructing this web is provided in the Handouts section.)

Second Round: The Provocative Text, part one (25 minutes)
Students from all the groups are given six short but challenging articles that offer multiple perspectives on affirmative action. They read two or three of these articles in class and answer the reading comprehension questions that follow them. Then, students code the articles with “N” for new information and add their new knowledge to the web using a different colored marker. The remaining articles and reading comprehension questions are assigned as homework.
Fourth Class Period

Second Round: The Provocative Text, part two (25 minutes)

Remaining in their groups, students discuss the articles they read as homework, once again coding with “N” for new information and adding their knowledge to the web in the same colored marker as before. (Since it is unlikely that every student understood all of the articles, time should be allowed for discussion. Some teachers may wish to extend this round to a full class period.)

Third Round: The Informational Text (30 minutes)

Each member of the group receives “By the Numbers,” a fact sheet on race, class, and affirmative action in America. For this round, the “text” is a set of numbers, charts, and graphs. Students must organize and interpret this information in light of what they have learned. Once again they discuss the text, code it for new information, and share this knowledge on the chart paper in a marker of a third color.

Fifth Class Period

Fourth Round: The Mystery Texts Revisited (25 minutes)

Ask students to return to the paragraphs they wrote on the political cartoons and write about them again. (Most will want to write at greater length.) Afterwards, in their groups, the students discuss the contrast between their first and second encounters and reflect on what made the experience so different. Students are invited, but not required, to add ideas to their webs in a marker of a fourth color.

Conclusion: Building Background Knowledge (30 minutes)

Ask the class to examine the process through which we become more informed about a complex subject. Some questions for class discussion:

- How much did you know about the topic at first?
- What inspired your curiosity in the first round of cartoons?
- What more did you learn from texts in the second and third round?
- Looking at your web, in which area did you learn the most?
- What part of the web would you want to tell others about?
- What was it like to encounter the cartoons a second time?
- What do you think now about Judge Henderson’s decision on Prop 209?

Lesson Closure

In the final class activity, students post their webs around the room and do a “gallery walk” among them. They are encouraged to talk about the similarities and differences among the webs, but especially about the ways in which the webs could be combined. As a lesson extension, the
student groups could create one or several “super webs” to express the understanding of the topic gained by the class as a whole.

**Student Assessment Artifacts**
- Knowledge Web
- Reading comprehension questions for six articles on affirmative action
- Short essay (as lesson extension)
- Letter or op-ed Article (as lesson extension)

**Variations and Extensions**

**Extension 1:** Students write a short argumentative essay, choosing two affirmative action objections to refute, or two supports of affirmative action that they will challenge.

**Extension 2:** Students write a letter or op-ed article to a state legislator that explains their view of affirmative action, how it may have changed after completing this lesson, and what policy they feel the government should take.

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**State Academic and Common Core Standards**

**COMMON CORE STATE STANDARDS**

**English Language Arts**

RI 11-12 1 Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

RI 11-12 2 Determine two or more central ideas of a text and analyze their development over the course of the text, including how they interact and build on one another to provide a complex analysis; provide an objective summary of the text.

RI 11-12 6 Determine an author’s point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

W 11-12 1, W 11-12 2

W 11-12 4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience. (Grade-specific expectations for writing types are defined in standards 1–3 above.)

W 11-12 8 Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

**CALIFORNIA Content Standards for History/Social Science**

11.10 - Students analyze the development of federal civil rights and voting rights

11.10.2 Examine and analyze the key events, policies, and court cases in the evolution of civil rights, including Dred Scott v. Sandford, Plessy v. Ferguson, Brown v. Board of Education, Regents of the University of California v. Bakke, and California Proposition 209.

11.10.3 Describe the collaboration on legal strategy between African American and white civil rights lawyers to end racial segregation in higher education.

11.10.4 Examine the roles of civil rights advocates (e.g., A. Philip Randolph, Martin Luther King, Jr., Malcolm X, Thurgood Marshall, James Farmer, Rosa Parks), including the significance of Martin Luther King, Jr.’s “Letter from Birmingham Jail” and “I Have a Dream” speech.

11.10.5 Discuss the diffusion of the civil rights movement of African Americans from the churches of the rural South and the urban North, including the resistance to racial desegregation in Little Rock and Birmingham, and how the advances influenced the agendas, strategies, and effectiveness of the quests of American Indians, Asian Americans, and Hispanic Americans for civil rights and equal opportunities.

11.10.6 Analyze the passage and effects of civil rights and voting rights legislation (e.g., 1964 Civil Rights Act, Voting Rights Act of 1965) and the Twenty-Fourth Amendment, with an emphasis on equality of access to education and to the political process.
### State Academic and Common Core Standards

**COMMON CORE STATE STANDARDS**

**English Language Arts**

- **SL 11-12 1, SL 11-12 2** Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

- **SL 11-12 3** Evaluate a speaker’s point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

- **SL 11-12 4** Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

**California Content Standards for History/Social Science**

12.1 Students explain the fundamental principles and moral values of American democracy as expressed in the U.S. Constitution and other essential documents of American democracy.

12.1.5 Describe the systems of separated and shared powers, the role of organized interests (Federalist Paper Number 10), checks and balances (Federalist Paper Number 51), the importance of an independent judiciary (Federalist Paper Number 78), enumerated powers, rule of law, federalism, and civilian control of the military.

12.1.6 Understand that the Bill of Rights limits the powers of the federal government and state governments.

12.5 Students summarize landmark U.S. Supreme Court interpretations of the Constitution and its amendments.

12.5.1 Understand the changing interpretations of the Bill of Rights over time, including interpretations of the basic freedoms (religion, speech, press, petition, and assembly) articulated in the First Amendment and the due process and equal-protection-of-the-law clauses of the Fourteenth Amendment.

12.5.2 Analyze judicial activism and judicial restraint and the effects of each policy over the decades (e.g., the Warren and Rehnquist courts).

12.5.4 Explain the controversies that have resulted over changing interpretations of civil rights, including those in *Plessy v. Ferguson, Brown v. Board of Education, Miranda v. Arizona, Regents of the University of California v. Bakke, Adarand Constructors, Inc. v. Pena,* and *United States v. Virginia (VMI).*
# Lesson Handouts

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Affirmative Action in the United States

More than a half century since it began, affirmative action has produced a legacy of successes, including a revolution in recruiting and hiring. But it has caused persistent resentment and failed to eliminate poverty or racism.

The affirmative action program began with World War II when President Franklin Roosevelt signed the executive order barring discrimination in the federal government and by war industries. The executive order outlawed discrimination against blacks by defense contractors and it also set up the first Fair Employment Practices Committee. Compliance, though, was imperfect; the programs lacked enforcement and funds.

Affirmative action gained muscle in the 1960s with the rise of the civil rights movement. Explicitly, it has been about race, and to a lesser degree, gender — a policy to make up for centuries of oppression and to ensure diversity. But there has always been a broader notion to affirmative action as well. It has been the most serious effort of any kind to ensure equality of opportunity in education and hiring, without regard to wealth or poverty. When all else failed — the War on Poverty, welfare, public schools — the system enabling preferential treatment would be there to help less-fortunate Americans overcome the circumstances of their origins.

Executive order 10925, issued by President John F. Kennedy in March 6, 1961, established the Committee on Equal Employment Opportunity, mandating that projects given federal funds take affirmative action to keep racial bias out of employment and hiring practices. But it was the Civil Right Act signed by President Lyndon Johnson in 1964 that effectively outlawed discrimination and breathed life into the idea of equal opportunity. In 1965, Mr. Johnson issued Executive Order 11246, which required federal contractors to take affirmative action in hiring employees without regard to race, religion and national origin. Three years later, gender was added to the protected categories.

Meeting Staunch Opposition

Affirmative action, however, met staunch opposition from a number of communities, who assailed what they called a quota system. Some leaders feared that it would create polarization, jeopardizing the economic and political status of Jewish and white middle-class people — that it was, in effect, reverse discrimination. Jewish people have long argued against the quotas of elite universities and colleges that were used to exclude them, regardless of academic merit. Some Jewish groups saw minority admissions programs as the reworking of the old, disreputable system.

Courts have tended to rule against colleges and universities that use strict numerical solutions to remedy racial imbalances. The Bakke case would become a famous salvo galvanizing both sides of the affirmative action debate.

Allan P. Bakke, a white man, challenged a special admission program at the medical school of UC Davis. Mr. Bakke said the special program had discriminated against him on the basis of race, and the California State Supreme Court agreed. The case, which went to the U.S. Supreme Court, was perhaps the most important race relations lawsuit since the 1954 Brown v. Board of Education decision on school desegregation.
In its 1978 landmark Regents v. Bakke decision, the court ruled 5-4 that it was unconstitutional for a state school to reserve a limited number of places for qualified minority applicants. It said, however, that race could be taken into consideration in deciding admission — that race could be a “plus factor.” The decision meant that the great majority of affirmative action programs, both public and private, could continue — along with the escalating debates and lawsuits over what constitutes racial balance.

In the early 1990s, elite campuses began to pull back from their aggressive affirmative-action policies. And in 1996, California voters passed the California Civil Rights Initiative, or Proposition 209. After that, race could no longer be a factor in government hiring or public-university admissions. The number of black students at both Berkeley and UCLA plummeted, and at UCLA the declines continued throughout the next decade. In 1997, the freshman class included 221 black students; in 2006, it had only 100. In the region with easily the largest black population west of the Mississippi River, the top public university had a freshman class in which barely 1 in 50 students was black.

High Court Ruling

More than a quarter century after Bakke, the high court ruled again in favor of affirmative action, but with qualifications. In a 6-3 vote, it struck down the University of Michigan’s undergraduate admissions program, in which students were evaluated on a 150-point scale that awarded 20 points for being a member of an underrepresented minority group. However, in a 5-4 ruling, the court upheld Michigan’s law school program in which decisions were made by an admissions committee without a numerical scale. . .

Much of the justification for affirmative action in other arenas has concerned the righting of past wrongs, and thus faces a time limit: when the playing field has been leveled, such policies will no longer be needed. But if a mixed campus is considered in the state’s interest because it improves everyone’s education, then racial preferences would be defensible for years to come.

Finding ‘Wiggle Room’ in Court Decisions

In December 2011, the Obama administration urged colleges and universities to get creative in improving racial diversity at their campuses, throwing out a Bush-era interpretation of rulings that limited affirmative action in admissions.

The guidelines issued by the Departments of Justice and Education in a 10-page guide replaced a 2008 document that essentially warned colleges and universities against considering race at all. Instead, the guidelines focus on the wiggle room in court decisions involving the University of Michigan, suggesting that institutions use other criteria — students’ socioeconomic profiles, residential instability, the hardships they have overcome — that are often proxies for race. Schools could even grant preferences to students from certain schools selected for, among other things, their racial composition, the document says.

Adapted from The New York Times:
http://topics.nytimes.com/topics/reference/timestopics/subjects/a/affirmative_action/index.html
## First Round: The Mystery Texts
### Pro- and Anti-Affirmative Action Political Cartoons

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<td>Source: <a href="http://www.opencongress.org/w/images/7/71/Affirmative-action_cartoon.gif">http://www.opencongress.org/w/images/7/71/Affirmative-action_cartoon.gif</a></td>
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Sample Template for a Knowledge Web
Second Round: The Provocative Text
Six Readings on Affirmative Action

Reading #1: We Still Have Far to Go by Patricia J. Williams


Building Word Knowledge

Author Patricia Williams refers to “new categories of the historically disenfranchised” (paragraph 1); an argument that “is not merely hypocritical but foolish” (paragraph 2), and the “disingenuous hoopla” from people who claim that race no longer matters in our society (paragraph 5). She also mentions the “de facto disparity” between the races in college attendance (paragraph 2). From the context in which they appear, define these words. Find three other words in the essay that can be understood from their context and use a dictionary, if needed, to define them.

Comprehending the Essay

Answer these questions in one or two complete sentences.

The author gives several reasons why we should still be concerned about the small number of blacks and Hispanics who attend college. What is one of these reasons?

Why does the author approve of the Texas Top Ten Plan? What do you think its critics might say about the plan?
Reading #2: The Harm of Racial Preferences by Peter H. Schuck


Building Word Knowledge

In English, certain words frequently appear together. These word partners are called “collocations.” In this essay, author Peter Shuck uses three collocations often found in writings about race and education. Define these terms:

- race-conscious (paragraph 1)
- race-based (paragraphs 2 and 4)
- race-neutral (paragraph 2)

Comprehending the Essay

In paragraphs two and three, the author explains why he opposes the affirmative action plan in Texas. Summarize his view in two to four sentences.
Reading #3: Rely on Merit, Not Race by Stephen Hsu


Building Word Knowledge

Author Stephen Hsu uses three words or phrases that identify important characteristics of higher education in America today: “legacy students,” “elite universities,” and “the meritocratic ideal.” Define the words in boldface and, in one or two sentences, explain how these phrases relate to college students.

Comprehending the Essay

The author asks “Would students admitted through race-based preference be better off at somewhat less elite universities where their abilities are better matched to those of their classroom peers? In three to four sentences, explain the strengths or weaknesses of this view. For example, are there benefits to “race-based preferences” other than achievement in the classroom?


**Reading #4: In Fisher v. Texas, Look at the Politics** by Ian Haney-Lopez


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**Building Word Knowledge**

Many words can be learned using the context in which they appear. Try to define these words from their context, then check your definitions by looking them up in a dictionary.

- electoral politics
- a foil in the culture wars
- the coddling of criminals
- mobilize voters
- devastating development
- banning discrimination as ineffective
- curtailed every direct means
- campaign resounds with themes

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**Comprehending the Essay**

In one or two sentences, explain why the author thinks that the Supreme Court in Fisher v. Texas will declare affirmative action unconstitutional.

In the final paragraph, why does the author lump together with affirmative action such diverse issues as gay marriage, abortion, and contraception? In other words, why does he view these issues as related?
Reading #5: Knowing When Race Matters by Vikram Amar


Building Word Knowledge

Working with a partner, find eight words in this article you don’t know. Learn four of them and teach them to your partner, then switch roles. When you’re done, see if together you can define all eight words.

Comprehending the Essay

Is affirmative action a good thing? The author seems uncertain. In one to three sentences, state two reasons he gives for supporting it, and two reasons for why it should be opposed.

What does the author mean when he says in the last paragraph that people who “care about the original understanding of the Constitution’s terms that the framers of the Equal Protection Clause themselves used race-based laws to help African-Americans as a class”? Before responding, ask yourself where you would look for information about the “Equal Protection Clause,” which is part of the 14th amendment of the U.S. Constitution. Then consult this source – a book, internet article, or person – to help you respond.
Reading #6: A Constitutional and Fair Policy by Jeffrey Rosen


Building Word Knowledge

To read and write well, it is important to learn all the members of a word family so that you can use the right form of the word. Here are some words from this essay, “A Constitutional and Fair Policy,” along with other members of their word families. Learn these words and find one other word in the reading that is a member of a word family.

restrictions (noun) restrict (verb) restricted (adjective)

compelling (adjective) compel (verb) compulsion (noun)

precedent (noun) precede (verb) preceding (adjective)

Comprehending the Essay

When you read, it’s important to find the main idea, which may sometimes be expressed in a single phrase or sentence. In this article, the main idea is stated in the opening sentence of paragraph three: “Kennedy’s worries that affirmative action — like restrictions on corporate campaign funding — may “destroy confidence” in the Constitution are uninformed by empirical evidence.” In two or three sentences, explain what the author means by this.
Third Round: The Informational Text
By The Numbers Fact Sheet

Below are charts showing the 25%, 50% and 75th percentile LSAT scores of Black, Hispanic, Asian, and White admittees at Arizona, Arizona State, and Nebraska. To check your understanding, locate the 50% percentile for Hispanics and Asians in 2007 and find the difference in scores. (Source: Center for Equal Opportunity, a conservative policy-research firm)

### LSAT Scores

Figure 3. LSAT Scores for ASU College of Law Admittees

![Chart showing LSAT scores for ASU College of Law Admittees.](http://taxprof.typepad.com/.shared/image.html?/photos/uncategorized/2008/10/08/asu_law.jpg)

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<td>2006</td>
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<td>160</td>
<td>164</td>
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<td>159</td>
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### LSAT Scores

Figure 3. LSAT Scores for Nebraska Law School Admittees

![Chart showing LSAT scores for Nebraska Law School Admittees.](http://taxprof.typepad.com/.shared/image.html?/photos/uncategorized/2008/10/08/nebraska.jpg)

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<td>2007</td>
<td>150</td>
<td>155</td>
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Racial/Ethnic Distribution of New Undergraduates: University of California (UC) wide 1999-2010

New freshmen
Universitywide

New transfers
Universitywide

Economic Opportunities Among Women and Blacks
The following chart shows the leading economic indicators for women since 1966. Keep in mind that affirmative action for women did not start until the late 60s; it was most vigorously enforced in the 70s, and less enforced in the 80s.

<table>
<thead>
<tr>
<th>Year</th>
<th>Poverty Rate</th>
<th>Unempl. Rate</th>
<th>Labor Partic.</th>
<th>Median FT,YR male/Income female ratio</th>
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<tr>
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<td>16.3%</td>
<td>4.8</td>
<td>38.3</td>
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<td>16.3</td>
<td>6.0</td>
<td>55.3</td>
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Note: Female economic indicators, individual. Median income: 15 years and older, income adjusted for inflation. Female labor force participation rate: 16 years and older. Income ratio: full-time, year-round female to male median earnings.

Discussion Questions:
How has the percentage of women participating in the labor force changed between 1966 and 1994? Second, women made roughly 59 cents to every man's dollar in the mid- to late 1960's. How would you describe the change? Based on what you know about Affirmative Action enforcement, what can you conclude about the influence of affirmative action on women's earnings during the period in this table?

Source: [http://www.huppi.com/kangaroo/L-aahelp.htm](http://www.huppi.com/kangaroo/L-aahelp.htm)
For blacks the history of affirmative action reads a bit differently, in two ways. First of all, blacks have always been concentrated in the nation's lowest-paying and most menial jobs. Unlike women, blacks were underrepresented not only in managerial/professional jobs but in ordinary middle class jobs as well. Since the qualifications for the latter are less than the former, what can be inferred about black gains and the rate at which they were accomplished? Second of all, affirmative action began addressing racial discrimination many years before gender discrimination. How might this affect black gains?

The following chart shows the leading economic indicators for blacks since 1965:

<table>
<thead>
<tr>
<th>Year</th>
<th>Poverty Rate</th>
<th>Unemployment Rate</th>
<th>Median Income</th>
<th>Percent of white median</th>
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<td>NA</td>
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<td>1994</td>
<td>30.6</td>
<td>11.5*</td>
<td>12,248</td>
<td>74.1*</td>
</tr>
</tbody>
</table>

Discussion Question:

From the chart, what would you conclude about the influence of Affirmative Action on key economic indicators for blacks?

What other information would help you answer this question?

http://www.huppi.com/kangaroo/L-aahelp.htm
Lesson Extension: Arguments For and Against Race-based Affirmative Action

Arguments for Race-Based Affirmative Action

Review these points and discuss the questions at the bottom of each page:

- The only way to offset the disadvantages faced by minorities—historical or otherwise—is to even out the playing field.

- Past discrimination has been passed on from generation to generation, so the effects of discrimination can linger for decades or centuries.

- Discrimination also inflicts a psychological toll on its victims and their descendants. Many blacks and minorities today know their parents and grandparents were subjected to severe racial discrimination and discrimination continues today. Some question whether they really have a “fair shot” at the American Dream. Race-based affirmative action is necessary to counteract these harmful effects.

- Race-based affirmative action is good for society as a whole. Diversity in America’s schools improves learning opportunities because students are exposed to a wider range of ideas and perspectives and therefore challenged to expand their knowledge.

- More diverse organizations make better decisions, perhaps because they are forced to consider a wider variety of options when making decisions.

- Because the United States is so much more diverse than other nations, it is important to make sure that each group interacts with and understands other groups, to create a strong and cohesive citizenry.

- Affirmative action promotes diversity which addresses legal and moral of past discrimination.

- Diversity does not imply favor toward any particular group. All groups benefit from the diversity of perspectives and experiences.

- Diversity is common in the business world, where workforce diversity is a prerequisite for servicing a diverse base of customers.

1. What do you believe are the three strongest arguments for race-based affirmative action?
2. What do you think is the weakest argument?
3. What is your view on race-based affirmative action?

---

1 Adopted from “Affirmative Action: Race or Class?” A white paper by Douglas N. Harris from the University of Wisconsin at Madison (with assistance from Carl Frederick). March 16, 2009
Arguments against Race-Based Affirmative Action²

Review these points and discuss the questions at the bottom of the page:

- Affirmative action is itself a form of discrimination—reverse discrimination against whites. This conflicts with the idea of a color-blind society where decisions are made based on “merit” alone.

- if the goal of affirmative action is to compensate for historical discrimination, then reverse discrimination is also unfair because it punishes whites today for the crimes of their ancestors.

- Affirmative action is also counter-productive because it stigmatizes minorities, characterizing them as being in need of special treatment. This is especially true of qualified and talented blacks who succeeded in today's society without affirmative action.

- Affirmative action may also be counter-productive by putting minorities into situations where they are likely to fail and subsequently encouraging minorities to view themselves as “victims,” preventing them from reaching their full potential.

- Current anti-discrimination laws adequate tools in addressing ongoing discrimination. They need to be enforced.

- Race is only one aspect of diversity. Focusing on creating racial diversity doesn’t take into account intellectual diversity or a diversity of opinions.

1. What do you believe are the three strongest arguments against race-based affirmative action?
2. What do you feel is the weakest argument?
3. What is your view on race-based affirmative action?

Adapted from PBS News Hour Extra:

² Adopted from “Affirmative Action: Race or Class?” A white paper by Douglas N. Harris from the University of Wisconsin at Madison (with assistance from Carl Frederick). March 16, 2009
Arguments for Class-Based Affirmative Action

Directions: Review the following points in your group.

- With improved social awareness and better anti-discrimination laws, race has become less important relative to class. Thus, giving preferences based on class would do more to equalize opportunities.

- Class is a better indicator of true disadvantage and does a better job of promoting equality of opportunity.

- Class-based affirmative action is a more complete way to address past and present discrimination. Because poor people are more likely to be racial minorities, class-based affirmative action helps create racial diversity.

- Class-based affirmative action would impose less of a stigma effect, because a person’s class is harder to identify than a person race or ethnicity.

1. What do you believe are the three strongest arguments for class-based affirmative action?
2. What do you feel is the weakest argument?
3. What is your view on class-based affirmative action?