

Average Household Income by Race, 2009

U.S. Census, Table 677

Asian	White	Hispanic	Black
85,018	70,331	50,828	46,631

Fishkin's Trilemma

Can have any two, but not all three, of following:

Merit

Equality of Life Chances

Autonomy of the Family

Civil Rights Act of 1964, Art. 7

Prohibited discrimination in hiring on basis of race, religion, gender, or national origin

Allowed federal courts that find discrimination to order "such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without backpay..."

Executive Order 11,246 (1965)

Promulgated by Pres. Johnson

Required companies contracting with the Federal Government (which employed almost one third of American workers) to halt discriminatory policies and take affirmative action to remedy past discrimination.

Griggs v. Duke Power (1971)

**Duke had segregated plant until 1964
CRA, Blacks only worked in labor
dept**

**Following CRA, Duke requires HS
degree or passage of aptitude test
for any position, including truck
driving, outside Labor Dept.**

Griggs v. Duke Power (1971)

Results of Segregated Education

% of NC male high school grads, 1966

Black Men: 12%

White Men: 34%

Applicants who passed aptitude test

Black Men: 6 %

White Men: 58%

United Steelworkers v. Weber (1979)

Kaiser Aluminum plant in Louisiana had 39% black workforce, but fewer than 2% of skilled labor positions held by blacks.

Training program for skilled positions admitted equal number of blacks and whites

Union challenged b/c racial requirement violating union seniority rules

Local 28 v. EEOC (1986)

Sheet metal workers union required all new members to be sponsored by current member, not a single minority member of NYC local

The Court established a 29 percent minority membership goal based on mix of local population demographics and national representation in industry.

U.S. v. Paradise (1987)

Alabama State Police had not hired a single Black trooper until ordered to do so by Federal District Court in 1971.

In 1979, none of the 232 AL state troopers at or above rank of corporal was Black. Promotion involved combination of test and personal interview

U.S. v. Paradise (1987)

Sup. Ct sustained lower court order that half of all promotions to go to Blacks.

Civil Rights Act of 1991

Personnel policies that result in a disparate impact on women and minorities must have "a substantial and demonstrable relationship to effective job performance."

City of Richmond v. J.A. Croson Co.(1989)

An affirmative action plan requires:

- 1) direct evidence that nonminority contractors systematically excluded minority contractors;**
- 2) significant statistical differences between the number of qualified minority contractors submitting bids, and those hired; or**

City of Richmond v. J.A. Croson Co. (1989)

Continuation:

Creation of an affirmative action plan requires:

3) individual instances of discrimination supported by statistical proof. Individual instances without statistical proof support individual remedies.

Ricci v. DeStefano (2009)

19 New Haven CT firefighters (17 white, 2 Hispanic) claimed that the city discriminated against them

All passed the test for promotions, but the city invalidated the test results because no black firefighters had scored high enough to be considered and the city feared a disparate impact lawsuit over the test.

***Gratz v. Bollinger* (2003)**

Companion case to *Grutter*, concerned undergraduate admissions

U of Michigan automatically awarded 20 of 100 points necessary for admission to members of underrepresented ethnic groups

Sup Ct finds too mechanistic in approach, not individualized, as in *Grutter*