

# H.R.1

---

## IN THE HOUSE OF REPRESENTATIVES

February 13th, 2023

Mr. Posting (for himself) introduced the following bill;

---

## A BILL

To end the practice of consideration of race or sex in admissions to institutions that receive federal funding.

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,*

### SEC. 1. SHORT TITLE.

This Act may be cited as the “Ending Affirmative Action Act of 2023”.

### SEC. 2. FINDINGS.

Congress finds that—

- (a) The practice of race-based affirmative action in college admissions results in many highly qualified individuals being denied to colleges on account of race;
- (b) Affirmative action based on the color of one’s skin is a far more discriminatory and less fair process than looking at income or other statistics;
- (c) The most recent data shows that to be accepted to the average American school, an African-American student with the same GPA as an Asian-American student has between a 3 and 10 times greater chance of being admitted to an institution;
- (d) There are ways to increase diversity on colleges without explicitly considering race in the admissions process;
- (e) As there is limited space in any institution, the practice of increasing any individual’s standings based on race necessarily must discriminate against others.

**SEC. 3. DEFINITIONS.**

In this Act—

- (a) **Race-Based Affirmative Action.**— The term “Race-Based Affirmative Action” refers to the practice of advantageous treatment when assessing an applicant from a historically underrepresented ethnic group in the admission process, which would result in an advantage in gaining acceptance to an institution over another individual with corresponding scores and other factors from a different ethnic background.

**SEC. 4. AMENDING TITLE VI OF THE CIVIL RIGHTS ACT.**— 42 U.S. Code § 2000d is amended to read as follows:

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. No person in the United States shall, on the ground of race, color, or national origin, be favored for participation in, be explicitly aided in receiving the benefits of, or be subject to positive discrimination under any program or activity receiving Federal financial assistance.”

**SEC. 5. AMENDING TITLE IX OF THE EDUCATION AMENDMENTS.**—

- (a) 20 U.S. Code § 1681(a) is amended to read as follows:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance nor shall any person in the United States, on the basis of sex, be favored for participation in, be explicitly aided in receiving the benefits of, or be subject to positive discrimination under any program or activity receiving Federal financial assistance, except that:”

- (b) 20 U.S. Code § 1681(b) is amended to read as follows:

Nothing contained in subsection (a) of this section shall be interpreted to allow any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: Provided, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex as long as the purpose of such a proceeding is to eliminate discrimination based exclusively on sex and does not result in the positive or negative weighting of either sex in any applications process, all other factors being equal.

**SEC. 5. STRENGTHENING TITLE VI EMPLOYMENT PROTECTIONS.**— 42 U.S. Code Subchapter V is amended by striking 42 U.S. Code § 2000d-3 and renumbering all following sections accordingly.

**SEC. 6. FURTHER CLARIFICATION FOR JUDICIAL REVIEW.**— In the case of further judicial review, nothing in these amendments shall be construed to ban positive discrimination or affirmative action based on factors such as income, family history of higher education, or other factors based on the circumstances of an individual's history and economic class other than race and sex.

**SEC. 7. ENACTMENT.**

**EFFECTIVE DATE.**— The provisions of this Act shall come into force 30 days after its passage.

---