



Investigating the Defeat of Colorado's Amendment 46

An Analysis of the Trends and Principal
Factors Influencing Voter Behaviors

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Executive Summary

IN NOVEMBER 2008, Colorado voters considered a ballot initiative intended to end affirmative action in public education, employment, and contracting in the state. Known by proponents as the “Colorado Civil Rights Initiative,” Amendment 46 would have prohibited “discrimination or preferential treatment in public employment, public education, and public contracting,” effectively ending affirmative action in Colorado. This same language has been introduced and approved in four other states, including California’s Proposition 209 in 1996, Washington’s Initiative 200 in 1998, Michigan’s Proposal 2 in 2006, and Nebraska’s Initiative 424 in 2008.

In a reversal of past trends and contradictory to polling predictions, Coloradans voted to defeat the ballot measure by a margin of fewer than 40,000 votes (1,046,970 vs. 1,080,238).

This study aimed to gain detailed understanding of what led Coloradans to defeat Amendment 46, using a multiple-methods research design including a) statistical analyses of a large-scale survey of Colorado voters, b) in-depth qualitative analyses of interview data from 20 key opponents and proponents of the ballot initiative, and c) qualitative analyses of print, electronic, and broadcast media content examining what public information was available to voters, how media depicted Amendment 46, and which experts were consulted most often.

Primary Factors Influencing the Vote

We found three primary factors that influenced the outcome of the vote:

- 1) Voter attitudes about affirmative action;
- 2) Voter confusion about the intent, meaning, and consequences of Amendment 46; and

- 3) Specific oppositional efforts such as proposed alternative initiatives—Initiatives 61 and 82—and newspaper editorial stances.

Our analyses suggest that Coloradans overwhelmingly intended to support affirmative action on Election Day; arguably, were Amendment 46 a clearly worded referendum on attitudes toward affirmative action, it would have failed by a much wider margin: 66 to 34 percent. To account for the large number of voters who misinterpreted the outcome of the amendment, we created a variable to approximate each voter’s *intended* support of affirmative action. Analyses of open-ended responses in the voter survey underscore this central finding: Alarming few voters could accurately explain the consequences of passing Amendment 46.

Accordingly, analyses of survey data suggest that many voters were confused by the language and intent of Amendment 46. Of the 507 surveyed, 261 voters reported that when they voted, they believed a “Yes” vote was in *favor* of affirmative action, and another 46 were unsure about the intent of the amendment. This means that more than 60% of the sample was confused in some capacity about the meaning of the initiative. More specifically, however, most of those voters were not simply confused about the amendment, but were mistaken in their interpretation of the intended outcome.

A statistical model of voting behavior suggests that, holding all other relevant factors constant, someone who is confused about the intent of Amendment 46 is nearly 4.5 times more likely to vote “Yes” than someone who is not confused. Moreover, the effects of confusion are magnified for individuals who favor affirmative action and mistakenly believed Amendment 46 would preserve it; our data suggest voters with positive attitudes about affirmative action were more

likely to be confused. Thus, analyses from the voter survey indicate that a) attitudes toward affirmative action and b) interpretation of the intent of the initiative were the two strongest predictors of voting behavior.

Campaign and Media Influence

Some—although certainly not all—campaign activities and public media also influenced the outcome of the vote. For example, those who sought out public media (e.g., via blogs or newspapers) and those who turned to official voting recommendations were more likely to vote “No” on 46. Overwhelmingly, voters relied most heavily on print and broadcast news reporting, with over 65% consulting this type of media once a week or more. This is an important finding in the context of this study, because it lends credibility to inferences drawn about the influence of media in the media content analysis. Unlike consultation of public media, influence from campaign activities was a slight predictor of a “Yes” vote. That said, at least one campaign activity—grassroots canvassing—is associated with voters’ intended support of affirmative action, but not their actual vote. Our data suggest that confusion surrounding the intent of Amendment 46 may explain the disconnect between intended votes and actual votes.

In the print and electronic news media coverage analyzed, there were a total of 972 coded instances of various media frames invoked to characterize anti-46 and pro-46 arguments. To be clear, media content analysis does not shine a spotlight on how either side organized or ran their campaign; rather, we focused on the messages most often cited or referenced in the media. The most cited anti-46 arguments include:

- a) Amendment 46 is deceptive on multiple levels;
- b) Amendment 46 affects not only university admissions, but also recruitment, retention, and scholarship programs that target underrepresented populations; and
- c) Racism and oppression still exist today, and affirmative action is needed to push back against inequalities.

The most common pro-46 arguments were:

- a) Affirmative action is a form of preferential treatment;
- b) Affirmative action is tantamount to discrimination (i.e., “reverse discrimination”);
- c) Because affirmative action is not based on “true” merit and consistent standards, beneficiaries are harmed and/or seen as unqualified; and
- d) Race is not definable and America has essentially become post-racial.

While editorials generally took clear stances either for or against Amendment 46, the news articles did not tend to lean one way or the other. Instead, most news articles covered themes peripheral to Amendment 46 or shared points from both Amendment 46 supporters and opponents. That said,

people or groups connected with the pro-46 campaign were quoted or mentioned more than twice as often as people or groups associated with the anti-46 campaign (317 versus 127 times across the 355 artifacts analyzed).

Themes from Interviews

Analysis of the stakeholder interviews revealed a number of salient themes. The originators of Amendment 46 frequently argued that the initiative was a promising first step toward delivering equal opportunity and a color-blind/gender-blind society. Four of the nine pro-46 interviewees stated that their primary message was one of “fairness” or “equality.” The anti-46 campaign argued that the initiative would actually *diminish* equal opportunity for people underrepresented in public higher education, employment, and contracting. Both opponents and proponents of the initiative agreed the impact of the alternative initiatives were likely related to 46’s defeat in Colorado. Other pro-46 advocates observed that their opposition simply ran an effective campaign.

Conclusion

In sum, this study of voters’ attitudes and behaviors, media coverage of Amendment 46, and campaign leaders’ perceptions suggests that in order to preserve equal opportunity programs such as affirmative action, advocates should take a proactive role in educating the public about ballot initiatives aimed at dismantling civil rights policies. As such, five central recommendations emerge from the study’s results:

- 1) Ballot initiatives with the same or similar wording as Amendment 46 should be rewritten to clarify the intent, meaning, and consequences of the new law that would be passed. States need to make sure the intent, meaning, and consequences of such initiatives are much clearer to voters. More clarity on such initiatives may help get a more accurate outcome based on voters’ intent.
- 2) Educating voters about the intent, meaning, and consequences of the initiative should be the first priority for advocates.
- 3) Advocacy leaders ought to have one primary spokesperson to provide information to the media.
- 4) Education and advocacy efforts should begin well before petition signatures are collected to get the initiative on the ballot.
- 5) Advocates should plan for both traditional grassroots and door-to-door education efforts, and also for the use of new media and technologies in communicating their message to the public.



Introduction

IN NOVEMBER 2008, Coloradans voted on a ballot initiative intended to end affirmative action in the state. Known by proponents as the “Colorado Civil Rights Initiative,” Amendment 46 would have prohibited “discrimination or preferential treatment in public employment, public education, and public contracting,” effectively ending affirmative action in Colorado.¹ Four states—Michigan, California, Washington, and Nebraska²—have faced the same proposal, and all voted in support of the anti-affirmative action initiative. In a reversal of past trends and despite polling predictions to the contrary, Coloradans voted to defeat the ballot measure, if only by a margin of fewer than 40,000 votes.

This study aimed to gain detailed understanding of what precisely led Coloradans to defeat Amendment 46, using a multiple-methods research design, including a) statistical analyses of a large-scale survey of Colorado voters, b) in-depth qualitative analyses of interview data from 20 key opponents and proponents of the ballot initiative, and c) qualitative content analyses of print, electronic, and broadcast media content—culled from 355 artifacts comprised of 43 editorials, 21 endorsements, 257 news (including television broadcasts), and 34 op-eds—examining what public information was available to voters. See *Appendix A for the survey instrument, Appendix B for the 14-question interview protocol, and Appendix C for the list of print and electronic news media venues examined.*

Voter Survey

We gathered quantitative data via a survey administered to a sample of 507 Coloradans who voted in the 2008 election.³ Participants were randomly sampled from a population stratified by 18 regions, comprising 64 Colorado counties. The

regions were made up of counties matched on general voting patterns (typically Democratic versus typically Republican counties), degree to which they were urban, and physical proximity to each other. All surveys were administered over the phone by Voter Consumer Research, an independent research company. The full survey included questions on

- a) Voting behaviors,
- b) Attitudes toward affirmative action,
- c) Influences of various campaign activities and public media, and
- d) Demographic information.

Analyses of voter demographics (e.g., gender, race, political affiliation, income, and age) indicated that the sample was generally representative of Colorado voters.⁴

Stakeholder Interviews

We also interviewed 20 stakeholders. Of those, 9 were connected to the pro-Amendment 46 campaign and 11 were connected to the anti-Amendment 46 campaign. There were a total of 7 men and 13 women interviewed. Interviewees included 11 individuals who identified themselves or their organizations as primarily involved in political activism or advocacy, consultation, or research. Five identified themselves as spokespersons for their campaigns. Five were trained as attorneys. Two specifically identified a connection to “grassroots” organizations (although all would likely have labeled their work “grassroots”). And at least one person identified as either a student or a small business expert.

Media Content Analysis

Because media play a significant role in informing citizens on political issues, we analyzed how media (newsprint, internet, and television broadcast) depicted Amendment 46 and what experts they consulted most often. We retrieved news articles, editorials, endorsements, and guest commentaries from newsprint and Internet sources published between April 23, 2007 (the date of Amendment 46's introduction in Colorado) through November 4, 2008 (election day).⁵ To narrow the focus, we omitted pieces that merely gave a cursory mention of Colorado as one of several states with this initiative on the ballot. The final count yielded 355 artifacts: 43 editorials, 21 endorsements, 257 news (including television broadcasts), and 34 op-eds.

Summary Findings

Overall, our analyses indicate three main factors associated with the outcome of the vote.

- 1) Voter attitudes about affirmative action and equal opportunity were an important indicator of how voters intended to vote on Amendment 46.
- 2) Voters were likely to be mistaken regarding the intent, meaning, and consequences of Amendment 46, and this affected how they voted.
- 3) Specific oppositional efforts such as proposed alternative initiatives—Initiatives 61 and 82—and newspaper editorial stances seemed to play a role in the amendment's defeat. Anti-46 perspectives were published at nearly double the frequency as pro-46, and some newspapers, including the *Denver Post* and *Boulder Daily Camera*, published multiple editorials in opposition to Amendment 46.⁶

Taken together, these results suggest the language of “civil right initiatives” needs to be clarified so voters can readily understand their intended effects, particularly with respect to affirmative action. The more education and information that can be provided to voters, the better. Tactics and ways to do this include focusing on a possible alternative initiative; securing newspaper staff editorials; and educating voters via diverse methods, such as community dialogues designed to inform voter attitudes about affirmative action, door-to-door canvassing, and new media technologies.

In what follows, we present more detailed findings from each of the three strands of this study: a) the Colorado voter survey, b) media content analyses, and c) stakeholder interviews.

Voter Survey Analyses

Confusion about the Initiative

Nearly 80% of survey respondents reported voting “Yes” on Amendment 46. Initially, this was surprising, given that over 50% of voters cast a “No” vote on Election Day. When voter responses are disaggregated by perceived outcomes of Amendment 46, however, another interpretation emerges.

TABLE 1 presents the response patterns for individuals on the basis of their voting behavior and their understanding of the meaning of a “Yes” vote. Two-hundred-sixty-one voters reported that when they voted, they believed a “Yes” vote was in favor of affirmative action. Another 46 were unsure about

in opposition of their intended support, it was considerably more common for those who intended to support affirmative action to mistakenly vote “Yes,” than those who intended not to support affirmative action to vote “No”: 66.3% of respondents who reported a “Yes” vote on 46 actually intended to preserve affirmative action while, in contrast, only 29.6% of the respondents who reported voting “No” actually intended to prohibit affirmative action. Confusion was and still is widespread, and it appears to have artificially inflated the reported support for Amendment 46.

TABLE 1 *Reported Voting Behavior by Perceived Outcome of 46 (AA=Affirmative Action).*

Vote on 46	Perceived meaning of “yes” vote			Refused	Total
	In favor of AA	Against AA	Unsure		
Yes—prohibit AA	232	118	36	9	395
No—preserve AA	29	69	10	4	112
Total	261	187	46	13	507

the intent of the amendment. This means that more than 60% of the sample was confused in some capacity about the meaning of the initiative. More specifically, however, most of those voters were not simply confused about the amendment, but were mistaken in their interpretation of the intended outcome. Furthermore, the vast majority of voters who believed that a “Yes” vote was in support of affirmative action also reported that they had indeed voted “Yes” (232 voters out of 261); this suggests that many voters—nearly 50% of the entire sample—may have been misled into supporting the initiative because of a mistaken belief that the amendment was in support of affirmative action and equal opportunity.

To account for the large number of voters who misinterpreted the outcome of the amendment, we created a variable to approximate each voter’s *intended* support of affirmative action. For example, voters who indicated a) that they voted “Yes” on 46 and b) that a “Yes” vote was in favor of affirmative action were coded as *intending to support* affirmative action. Conversely, voters who indicated a) that they voted “Yes” and b) that a “Yes” vote was *against* affirmative action would be coded as *not intending to support* affirmative action. TABLE 2 presents the resulting relationship between reported voting patterns and the intent to support affirmative action. Under these criteria, just over two-thirds of the sample intended to support affirmative action programs (301 out of 448 voters). Furthermore, among voters who may have mistakenly voted

TABLE 2. *Reported Voting Behavior by Intent to Support Affirmative Action (AA).*

Vote on 46	Intended support of AA		Total
	In favor	Against	
Yes—prohibit AA	232	118	350
No—preserve AA	69	29	98
Total	301	147	448*

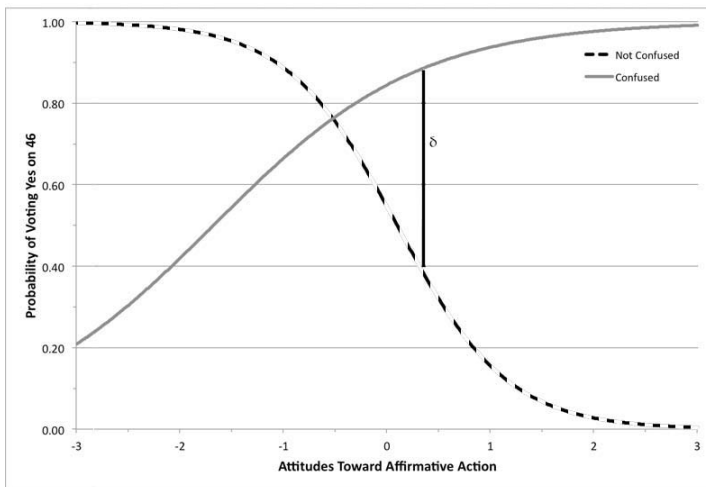
* The total count of participants is lower because the intention to support affirmative action cannot be determined for participants indicating that they are unsure of what a “yes” vote means, or those who refused to answer the question.

Analysis of open-ended responses in the voter survey (see Appendix A, Question 10) underscore this central finding: Alarmingly few voters could accurately explain the consequences of the passage of Amendment 46.⁷

We elaborate on this point via a statistical model of voting behavior. Our analysis suggests that, holding all other relevant factors constant, someone who is mistaken about the intent of Amendment 46 is nearly 4.5 times more likely to vote “Yes” than someone who is not. Moreover, the effects of confusion are magnified for individuals who favor affirmative action and believed Amendment 46 would preserve it. This finding bears particular emphasis: *Not only was misunderstanding about the intent of Amendment 46 widespread, it was also directional.* Few voters with

negative feelings toward affirmative action misunderstood the intent of Amendment 46. Furthermore, voters with positive attitudes toward affirmative action were not only more likely to misunderstand the intended outcome of the initiative, but they were also more likely to vote “Yes.” We present the statistical model underlying these analyses—along with further interpretation and additional survey analyses beyond the scope of this report—in Appendix D.

FIGURE 1. *Predicted Probabilities of a Yes Vote Given Affirmative Action Attitudes and Confusion.*⁸



To further illustrate this finding, FIGURE 1 presents the likelihood of a “Yes” vote for two types of respondents: those who misinterpreted the outcome of Amendment 46, and those who did not. Each curve in FIGURE 1 illustrates the predicted probability of a “Yes” vote on Amendment 46. In the figure, δ represents the estimated effect of misunderstanding on the probability of a “Yes” vote for the typical confused voter. It is clear that the probability of a “Yes” vote for the typical confused voter is more than double the probability of a “Yes” vote for someone who correctly understands the intent of Amendment 46.⁹

We note that although the effect of misunderstanding the intent of the initiative also *decreases* the likelihood of a “Yes” vote for voters with generally negative attitudes toward affirmative action, the majority of voters who were mistaken about the

intent of the initiative generally had positive feelings toward affirmative action. As such, it is best to conceive of the dotted line in FIGURE 1 as sparsely populated on the left-hand side.¹⁰

Opponents of the various “Civil Rights” Initiatives often have claimed that supporters use misleading language—and even deception—to confuse voters. Proponents have consistently protested, claiming either that voters are not confused about the initiative at all or, if they are, the confusion affects voters on both sides of the campaign and therefore cannot be attributed to the initiative’s passage. The findings presented here suggest that not only did the majority of respondents misunderstand the intent of Amendment 46, but those who misunderstood it disproportionately voted “Yes.” Furthermore, voters with generally positive attitudes about affirmative action and equal opportunity were more likely to be confused. These findings certainly suggest the need for clarity in ballot initiative text. They also imply that minimizing confusion and educating the public about the intent of “Civil Rights” Initiatives may be the most effective tool for ensuring ballot outcomes are honest reflections of public opinion.

Influence of Media and Campaign Activities

Our survey of Colorado voters also uncovered a variety of respondent-level (e.g., attitudes toward affirmative action) and external (e.g., amendment language) factors that had a profound impact on the vote in Amendment 46. Some—although certainly not all—campaign activities and public media also influenced the outcome. For example, those who sought out public media (e.g., via blogs or newspapers) and those who turned to official organizational endorsements and voting recommendations were more likely to vote “No” on 46. Those who were influenced by campaign activities were slightly more likely to vote “Yes”; that said, at least one campaign activity—grassroots canvassing—is associated with voters’ intended support of affirmative action, but not their actual vote come election day. TABLE 3 presents frequencies describing how various campaign activities influenced voters on Amendment 46.

The two most frequently cited activities that influenced voting on Amendment 46 included the public debates about Amendment 46 and information about equal opportunity programs in Colorado. Conversely, information about

TABLE 3. *Reported Influences in Determining How to Vote on Amendment 46.*

	Influenced (strongly or somewhat)	Did not influence	Did not encounter
Information about equal opportunity programs in Colorado	29.5%	26.7%	43.7%
Public debates about Amendment 46	27.0%	21.4%	51.5%
Grassroots communication/emails about the campaign	16.8%	27.2%	56.0%
Pro-46 campaign emails, mailings, and ads	16.6%	34.6%	48.9%
Anti-46 campaign emails, mailings, and ads	14.9%	38.0%	47.1%
Information about Ward Connerly and his motivations	7.2%	22.7%	70.1%
Anti-46 door-to-door canvassing	3.0%	22.1%	74.9%

TABLE 4. *Reported Consultation of Various Media and Information Sources.*

	Never	- 1x per month	-1x per week	Daily
Consulted print and broadcast news reporting	18.5%	15.5%	29.7%	36.3%
Consulted friends and family	36.3%	23.5%	25.9%	14.3%
Consulted online sources (internet news sources or blogs)	49.9%	17.4%	20.0%	12.8%
Consulted political party voter recommendations	64.3%	23.0%	9.7%	3.1%
Consulted religious organization voter recommendations	80.0%	11.2%	7.0%	1.8%
Consulted union/professional org. voter recommendations	82.6%	10.2%	5.4%	1.8%

California businessman Ward Connerly, chairman of the American Civil Rights Institute and creator of Amendment 46, and anti-46 door-to-door canvassing were the least frequently cited activities in influencing the Amendment 46 vote.¹¹

Voters were also asked to report how frequently they consulted various media and information sources throughout the election season. These results are presented in TABLE 4.

Overwhelmingly, voters relied most heavily on print and broadcast news reporting, with over 65% indicating they consulted this type of media once a week or more. This is an important finding in the context of this study, because it lends credibility to inferences drawn about the influence of media in the media content analysis.

Perhaps most importantly, this research suggests that while campaign activities and public media impacted the Amendment 46 outcome, voter behavior primarily was driven by two interacting factors: voter attitudes and the language of the initiative; those who misunderstood the intent of Amendment 46 were considerably more likely to vote “Yes.” Interestingly—and of utmost importance—our analyses also suggest that Coloradans overwhelmingly intended to support affirmative action on Election Day; arguably, were Amendment 46 a clearly worded referendum on attitudes toward affirmative action, it would have failed by a much wider margin: 66 to 34 percent (*see* TABLE 2).

It is useful here to address briefly one alternate explanation of the defeat of Amendment 46. Some proponents argued that the themes of the 2008 presidential campaign—and more importantly, the presence of an African-American candidate—might have discouraged a sizeable number of voters from supporting a measure that would ban affirmative action. This is one version of the so-called “Obama Bump” argument. Our survey data do not support this theory. When we control for attitudes toward affirmative action and confusion regarding the intent of the amendment, voting for Barack Obama in the 2008 presidential election had no impact on Amendment 46 voting behavior. An alternate form of the “Obama Bump” argument holds that Obama’s candidacy brought a group of affirmative action supporters to the polls who otherwise would not have voted; it is also generally well-recognized that presidential election years result in higher turnout, which could have also affected the vote. Because we cannot reasonably ascertain which voters in our sample would not have voted had Obama not been the Democratic nominee, it is not possible to test this hypothesis. Still, we can conclude from our analyses that the election results in Colorado were *not* driven by voters who supported Obama and voted against Amendment 46, regardless of their attitudes toward affirmative action. Amendment 46 voting behavior was driven overwhelmingly by attitudes toward affirmative action and confusion surrounding the measure.

Media Content Analysis

AFTER RETRIEVING 355 artifacts for analysis—consisting of 43 editorials, 21 endorsements, 257 news (including television broadcasts), and 34 op-eds—we coded each one to identify examples of media framing regarding affirmative action in general and Amendment 46 in particular (*see Appendix E for a complete list of frames used in coding media coverage*). For our purposes, we define framing as how the media focus upon specific values, patterns, and interpretations through language. We identified frames that supported anti-46 or pro-46 arguments. In the print and electronic news media coverage analyzed, there were a total of 972 instances of frames to characterize anti-46 and pro-46 arguments.¹²

Media Framing of Affirmative Action and Amendment 46

Below we list the top three cited **anti-46** arguments:

- 1) **Amendment 46 is deceptive on multiple levels.** First, misleading ballot language appropriates civil rights terminology to describe programs that dismantle civil rights programs. Second, fraudulence dominated the signature-gathering process. This frame was invoked in 27% of all anti-46 frames.
- 2) **Amendment 46 affects not only university admissions, but also recruitment programs that solicit underrepresented populations into certain careers (e.g., STEM: Science, Technology, Engineering, and Mathematics), scholarships, and retention programs.** This frame was used in 13% of all anti-46 frames.
- 3) **Racism and oppression still exist today, and affirmative action is needed to push back against inequalities.** The salary gap between women and men was the most prevalently cited example of current forms of racism and oppression. This frame was used in 11% of all anti-46 frames.

The top three **pro-46** arguments cited were:

- 1) **Affirmative action is a form of preferential treatment given to people based on race and/or sex.** This frame was used in 29% of all pro-46 arguments.
- 2) **Affirmative action is tantamount to discrimination (i.e., “reverse discrimination”).** The argument that affirmative action should not be based upon biological characteristics (e.g., race or sex) was sometimes used to

support the discrimination perspective; that is, people do not self-select biological characteristics, and rewarding contracts, admission, or jobs on the basis of those factors is a form of discrimination. This frame was invoked in 22% of all pro-46 arguments.

- 3) a) (Nearly tied with 3b and 3c) **Affirmative action causes more harm than good, especially as intended recipients are inappropriately placed into situations (e.g., university or careers) leading to self-doubt and failure.** This frame surfaced in 7% of all pro-46 arguments.
- b) **Affirmative action is a form of government benevolence that leaves room for uncertainty regarding the merits and abilities of affirmative action beneficiaries.** This argument works hand-in-glove with 3a. While 3a focuses on the well-being of affirmative action recipients, 3b summons the notion of double standards, characterizing beneficiaries as unqualified or undeserving. This frame was conjured in 6% of all pro-46 arguments.
- c) **Race is not definable.** Colorado is too diverse to be constrained and defined by racial boxes. Because America has become so multi-racial, it can be conceived of as post-racial: The presence of an African-American presidential candidate is evidence that America has moved beyond race. This frame was invoked in 6% of pro-46 arguments.

TABLE 5 lists all pro-46 frames and the dates during which they were mentioned by the news media. It also includes the frequency of each frame. Some pro-46 perspectives were introduced at the campaign’s outset, such as NPT2 (preferential treatment) and NPT4 (socioeconomic status as a marker for true disadvantage). Interestingly, the “equal opportunity” argument was one of the more recent arguments to emerge, perhaps in response to its use by the anti-46 campaign.

Likewise, TABLE 6 lists all anti-46 frames invoked, the dates during which they were mentioned by the news media, and the frequency of each frame. Interestingly, the media captured the anti-46 side’s conception of the “equal opportunity” frame early during the campaign (April 23, 2007). In comparison the media did not employ the pro-46 campaign’s conception of “equal opportunity” until later that year (December 28, 2007).

TABLE 5 *Frequency and Timeline of Pro-46 Frames.*

Frame*	Short-hand description	Frequency	Start date	End date
NPT2	Preferential treatment	139	04/23/07	11/04/08
NPT2D	Discrimination	106	04/23/07	11/04/08
NPT3	Beneficiaries are harmed	31	04/23/07	10/23/08
NPT1	Unqualified or undeserving	30	04/23/07	11/02/08
NPT5	Post-racial or multi-racial	29	04/24/07	11/04/08
NPT4	Socioeconomic status	26	04/23/07	11/02/08
NPT6	Open to everybody	22	12/28/07	10/23/08
M82	Initiative 82 = misleading	20	02/24/08	10/08/08
NPT2EO	Equal opportunity	17	12/28/07	10/28/08
NPT9	After Prop 209, seven UC schools increased admission and retention rates	14	04/23/07	10/31/08
NPT8	Color-blind	14	06/24/07	10/09/08
NPT2Bio	Unfair use of biology; gender/race	12	04/23/07	10/30/08
NPT7	Taxpayer dollars	10	04/24/07	10/16/08
NPT10	People can stand on their own	2	10/23/08	11/03/08
Total Pro-46 Frames Invoked = 472				

* See Appendix E for complete list of frames used

TABLE 6 *Frequency and Timeline of Anti-46 Frames.*

Frame	Short-hand Description	Frequency	Start Date	End Date
M46	Misleading message/fraudulent signature gathering	136	04/26/07	11/02/08
SJ3	Scholarships, retention, and recruitment affected	67	06/24/07	11/04/08
RA2	Racism/sexism still exist	54	04/23/07	11/02/08
SJ1	Equal opportunity	38	04/23/07	11/04/08
D4	Demographics	35	04/26/07	11/03/08
D1	Diversity good for education	34	05/04/07	11/02/08
M2	Connerly as carpetbagger	31	04/23/07	11/03/08
C1	Confusing language	24	05/14/07	10/30/08
RA1	History of racism/oppression	23	05/03/07	11/03/08
SJ2	Level playing field	18	04/24/07	11/02/08
D3	Global economy	15	04/26/07	11/03/08
D4prop	Prop 209 effects on UCLA and Berkeley	11	11/06/07	10/30/08
SJ4	Define merit beyond scores	8	04/24/07	10/30/08
D2	Need leaders to serve communities	6	09/18/08	11/02/08
Total Anti-46 Frames Invoked = 500				

Frequency of Articles that Support or Oppose the Initiative

Editorials in the *Boulder Daily Camera*, *Denver Business Journal*, *Denver Post*, *Durango Herald*, *Greeley Tribune*, *Longmont Daily Times-Call*, and *Loveland Reporter-Herald* took positions against Amendment 46 and sought to preserve affirmative action. The *Denver Post* took an especially strong stance against Amendment 46 by publishing seven editorials against the initiative. In sharp contrast, *Colorado Springs Gazette* and *Rocky Mountain News* wrote editorials in support of Amendment 46. The first editorial written by Rhonda Hackett (May 18, 2007) from the *Rocky Mountain News* opposed the initiative. However, subsequent

editorials by Vincent Carroll (March 2008—October 2008) all were in support of Amendment 46.

Despite editorial stances for or against Amendment 46, the majority of newspaper news articles did not lean one way or another toward Amendment 46. Since news artifacts comprised over 70% of the sample, we focused specifically on news articles and broadcasts to determine if the coverage in that domain was balanced. Overall, the news media depicted Amendment 46 both favorably and negatively. TABLE 7 shows that, within news artifacts, over 30% attempted to share messages and arguments from Amendment 46 supporters and opponents; slightly more showed opposition toward Amendment 46 than support. However, the largest

percentage of news artifacts covered topics tangential to Amendment 46, revealing no clear bias for or against the anti-affirmative action ballot initiative (see Appendix F for more detailed data regarding classifications of positions from news media and other media sources).

TABLE 7. Summary of Positions of News Artifacts (Excluding Editorials, Endorsements, and Op-eds).

Position toward Amendment 46	Percentage
Anti-46	19%
Pro-46	12%
Both	33%
Neither	36%
Total	100%

N = 257 news artifacts (Internet, newspaper, and television broadcast).

TABLE 8 highlights what experts the media consulted most, citing the number of articles that directly quoted individuals on the issues surrounding Amendment 46. The six most quoted “experts” are referenced here; to be clear, other people were consulted as experts in smaller frequencies (fewer than 3 times), but they are excluded from the table.

TABLE 8. Frequency of “Expert” Quotes.

Quotes from Anti-46 Individuals	Quotes from Pro-46 Individuals
Melissa Hart—38 (<i>Coloradans for Equal Opportunity</i>)	Jessica Peck Corry—58 (<i>Colorado Civil Rights Initiative</i>)
Craig Hughes—14 (<i>Spokesman for Vote NO on 46</i>)	Ward Connerly—29 (<i>American Civil Rights Institute</i>)
Patricia Barela Rivera—4 (<i>U.S. Small Business Administration</i>)	Valery Pech Orr—11 (<i>Colorado Civil Rights Initiative</i>)
Bill Vandenberg—4 (<i>Colorado Progressive</i>)	Ed Jones—5 (<i>Former senator</i>)
Joe Blake—4 (<i>Denver Metro Chamber President</i>)	Linda Chavez—5 (<i>Center for Equal Opportunity</i>)
Bill Ritter—3 (<i>Colorado Governor</i>)	Kate Melvin - 5 (<i>Colorado Civil Rights Initiative</i>)
Total Anti-46 = 67	Total Pro-46 = 113

The predominant voice of the anti-46 side came from Melissa Hart, president of Coloradans for Equal Opportunity, who was quoted in 38 artifacts. The most cited pro-46 advocate was Jessica Peck Corry, executive director of Colorado Civil Rights Initiative, who was quoted in 58 artifacts—more than any other person on the topic of Amendment 46. This suggests that Jessica Peck Corry may have positioned herself more effectively as the voice of the pro-46 campaign, making it easier for reporters to know who to consult for their articles.

TABLE 9 highlights the top five entities or individuals referenced (not quoted) by media. People or groups associated with the pro-46 campaign were quoted or mentioned more than twice as often as those associated with the anti-46 campaign.¹³

TABLE 9. Frequency of References.

References to Anti-46 Entities	References to Pro-46 Entities
Vote NO on 46—20	Colorado Civil Rights Initiative—86
Coloradans for Equal Opportunity—19	Ward Connerly—82
Colorado Unity—10	American Civil Rights Institute—18
Colorado Progressive Coalition—6	Independence Institute—8
Leadership Conference on Civil Rights—5	Valery Pech Orr—7
Total Anti-46 References = 60	Total Pro-46 References = 204

TABLE 10 displays the percentage of anti-46 and pro-46 stances represented in television broadcasts. We expected more pro-46 positions because of introductions to Amendment 46; for example, in reading the language of Amendment 46, terminology such as “discrimination” and “preferential treatment” would surface. However, both anti-46 and pro-46 arguments emerged in 20% of all broadcasts. This suggests television broadcasts shared perspectives from each side of the Amendment 46 debate, and neither side dominated. Similar to newspapers, the majority of television broadcasts covered tangential topics or balanced perspectives from anti-46 and pro-46.

TABLE 10. Percentage of Anti-46 and Pro-46 Positions Portrayed by TV Broadcasts.

Position toward Amendment 46	Percentage
Anti-46	20%
Pro-46	20%
Both	27%
Neither	33%
Total	100%

Stakeholder Interview Analysis

Messages Used to Describe Amendment 46

In the interviews conducted, the originators of Amendment 46 argued that the “civil rights initiative” is one of the most promising first steps toward equality or equal opportunity for all citizens, as well as for building a color-blind/gender-blind society. They based this argument, in large part, upon the understanding that any form of racial or gender “preference” is antithetical to the idea of nondiscrimination and to building a strong individual and a strong community. Four of the nine pro-46 interviewees stated that their primary message was one of “fairness” or “equality.” The interviewees noted they used these terms intentionally, to make the Amendment understandable and easily received by the public. As one advocate stated, “Even children understand fairness.” Invoking “fairness” was one of the strongest components of their message.

Some interviewees suggested that early in the campaign, the messaging of the opposition was somewhat scattered: The messages invoked by anti-46 interviewees varied from structural issues—such as the deceptive language of the Amendment, or that it was an unnecessary addition to the state’s Constitution—to assertions labeling Ward Connerly as a “carpetbagger” and suggesting a connection with the Ku Klux Klan. However, the message became more uniform as they developed one coherent umbrella organization, identified spokespersons, trained participants, and became affiliated with other progressive-minded campaign. A core theme seen throughout the campaign was that Amendment 46 would diminish equal opportunity for people who were underrepresented in public higher education, employment, and contracting.

We were able to identify prominent themes from both the pro-46 and anti-46 campaigns by locating the predominant terms and concepts that appeared in the interviews; as such, Table II provides the most frequently cited messages by both pro-46 and anti-46 interviewees.

TABLE II. *Most Commonly Cited Themes in Stakeholder Interviews, in Order of Occurrence.*

Concepts raised by Pro-46 interviewees	Concepts raised by Anti-46 interviewees
Race	Equal Opportunity
Preferences/Preferential Treatment	The Media
Obama	Confusion
	Education

Outcome of the Election

Thirteen of the 20 people interviewed stated that they were surprised by the defeat of Amendment 46. As one interviewee suggested, “. . . getting people trained in messaging and making sure that our organization and individual members were ready to go out and talk about this issue . . . and to engage in dialogue with folks about this issue” was critical to defeating Amendment 46.

Some of the potential reasons for the defeat of Amendment 46 that were cited by the proponents of the initiative—but were not mentioned by the opponents—included: a) the pro-46 failure to court rural voters, b) financing of the pro-46 campaign, c) the negative portrayal of Ward Connerly in the press, and d) the hypothesis that voters default to “no” for all ballot initiatives.¹⁴ Similarly, explanations cited by the anti-46 interviewees, that were not cited by the pro-46 camp included: a) confusion over language, b) the focus on equal opportunity, c) fraudulent activity from the pro-46 campaign, and d) email campaigns and the impact of grassroots organizations. Both sides mentioned the possible influence of the Obama campaign on the results of the election, and the influence of the “massive” number of initiatives on the ballot.

Opponents and proponents of the initiative both indicated that the alternative initiatives may have been related to 46’s defeat in Colorado. Although the idea of a counter-initiative surfaced during the Michigan campaign, no other state has been able to mount an effort comparable to the one in Colorado. One prominent Amendment 46 supporter suggested that Initiative 82 “hijacked [Amendment 46’s] language and gutted it” and “even though [82] didn’t get on the ballot, having to defend against that early on and saying, ‘be careful what you sign, read the language,’ generally could have confused some people.” Other pro-46 advocate statements identified Initiative 82 as costing them financial and personnel resources.

Both pro-46 and anti-46 advocates also observed that the opposition simply ran an effective campaign. The opposition specifically pointed to efforts at educating the public regarding the initiative. One pro-46 advocate noted, “I do believe the other side ran a very good campaign. They really got out there and really got their side, their opinions out. So I’ve gotta hand it to them. I don’t agree with them but I think they did a good job in their end of the campaign.”

Analysis of anti-46 interview responses provides further detail regarding the strategies of their campaign. A key element in that strategy was the involvement of grassroots

organizations. As one interviewee described, “Grassroots was great. . . . The organizations that got involved with the campaign around Colorado Unity and all the other organizations that got involved were amazing. . . . They believe in what they’re doing, and they’re eloquent, and they’re just magnificent.”

Analysis of voter surveys would seem to support these assertions. Controlling for attitudes toward affirmative action, voters who reported that they were strongly influenced by anti-46 door-to-door canvassing were 1.5 times more likely to intend to support affirmative action (*see detailed analyses presented in Appendix D*).¹⁵ Door-to-door canvassing was also the campaign activity least likely to be experienced by voters; despite this, it is the only activity that is related to an individual’s intent to support affirmative action.

In addition to detailing the impact of canvassers, anti-46 interviewees cited the importance of both mass and personal emails in educating the public. As one stated, “I got 30 or 35 responses from people I don’t know that said ‘I was forwarded this email by this person, who was forwarded it by this person and I just wanted to let you know I’ve changed my mind and I’m going to vote against it.’”

Ultimately, anti-46 interviewees pointed to several strategies that were particularly effective:

- a) The use of personal narratives and framing the issue in terms of equal opportunity;
- b) Organizing, speaking at, and attending debates and forums;

- c) Door-to-door contact by grassroots organizations and volunteers, as well as phone banking and other direct outreach;
- d) Partnering with other, like-minded campaigns;
- e) Various earned media, in addition to presenting state newspaper editorial boards with compelling data-driven information about the amendment;
- f) Obtaining key endorsements from politicians and organizations that could explicitly target their membership.

Finally, the interviewees mentioned numerous lessons learned by the campaign surrounding Amendment 46. The American Civil Rights Initiative (ACRI) consistently establishes campaign leaders and spokespeople at the onset of the campaign; in future campaigns, the opposition should consider identifying prominent individuals and focusing on a common message, specifically within the media context, to immediately address any tensions that exist between the perceptions of the knowledge-base and expertise among grassroots volunteers and experts or veterans. Further, interviewees suggested that campaigns simultaneously need to focus on educating the public against ACRI initiatives, initiating legal intervention against such initiatives, and gathering signatures for strategically structured counter-initiatives.

Conclusion and Recommendations

THIS STUDY of voters' attitudes and behaviors, as well as the media coverage of Amendment 46 and the perceptions of campaign leaders, suggests that in order to preserve equal opportunity programs such as affirmative action, advocates of affirmative action need to take a proactive role in educating the public about ballot initiatives aimed at dismantling civil rights policies.

As such, five central recommendations emerge from the study's results.

1) Ballot initiatives with the same or similar wording as Amendment 46 should be rewritten to clarify the intent, meaning, and consequences of the new law that would be passed.

Except in Colorado, every state ballot "Civil Rights" Initiative sponsored by ACRI has passed (e.g., California, Washington, Michigan, and Nebraska). None of the language added to state constitutions through these initiatives have contained the phrases "affirmative action" or "equal opportunity." In 1998, the city of Houston voted on a similar city ballot initiative to ban affirmative action in public programs, and the term "affirmative action" was used specifically in the text of the initiative. That initiative did not pass. Given the context of the survey findings presented here, the initiative in Houston may have been defeated because voters were not confused by the intent or consequences. In order for voters to know exactly what they would be voting for, the text of "Civil Rights" ballot initiatives must have clear wording that specifies the intent of the initiative and consequences of the new law, without using euphemistic terms or those open to wide interpretation such as "discrimination" and "preferential treatment." States need to make sure the intent, meaning, and consequences of such initiatives are much clearer to voters. More clarity on such initiatives may help get a more accurate outcome based on voters' intent.

2) Educating voters and the general public about the intent, meaning, and consequences of the initiative should be the first priority for advocates of equal opportunity and affirmative action.

The survey results in particular underscore the importance of public education around the issues central to Amendment 46. That confusion regarding the intent of the initiative seemed widespread during and after the election, even when presented with the text of the initiative, is quite telling: Many voters may not be able to decipher the language of the initiative or articulate the

intended outcome of the amendment, inhibiting their ability to make informed judgments that resonate with their support of equal opportunity and affirmative action. The media content analyses and stakeholder interviews reinforce the importance of clarifying the meaning of terminology frequently used by both supporters of 46 and the opposition (e.g., "equal opportunity" and "equality" and "civil rights"). Only if voters are able to cast a meaningful vote – that is, if they know just what they are voting for and understand the likely effects of the new law—can the results of ballot initiative elections reflect accurately the impulses and preferences of the people. As such, we recommend that campaign efforts focus efforts on voter education—and education of opinion leaders, community leaders, the media, and other individuals with the opportunity to educate and inform the public—to ensure that voters across the state are able to cast a meaningful vote.

3) Advocacy leaders ought to have one primary spokesperson to provide information to the media.

The media analysis of the coverage of Amendment 46 shows that when a campaign has one clear spokesperson, reporters know whom to contact, are better able to reach that person, and, as a result, are more likely to quote or reference that person. In conjunction, the advocacy team can work to provide education, participate in debates, make speeches, meet with newspaper editorial boards, and engage in other education and advocacy activities.

4) Education and advocacy efforts should begin well before petition signatures are collected to get the initiative on the ballot.

ACRI-sponsored campaigns often have the advantage of starting from a more advanced stage than opposing campaigns in the state. As such, proponents of equal opportunity programs and affirmative action need to be aware of upcoming ballot initiatives and ensure they have an education and advocacy team in place *as soon as possible*. The work of Colorado Unity, a coalition of community, civil rights, business, labor, and faith organizations committed to equal opportunity programs in Colorado, may serve as good example for future states hoping to organize advocacy efforts. That team can then expedite fundraising efforts; arrange for legal counsel to counter the initiative's placement on the ballot; recruit experts to craft an alternative initiative, collect petition signatures to qualify for the election, and work for its inclusion on the

ballot; work with public relations and communications specialists to craft the most effective message for that state's voters; and conduct community dialogues about substantive issues across the state to inform voters' attitudes about the policy issues in question.

5) **Advocates should plan for both traditional grassroots and door-to-door education efforts, and also for the use of new media and technologies in communicating their message to the public.**

The education and advocacy team should be prepared to use every avenue of communication available, including email; social networking sites; blogs; door-to-door canvassing in urban, suburban, and rural areas; public debates and forums; and community dialogue sessions about affirmative action. All materials should be available in both English and other languages prominent in the state. It is also important to provide research-based information to newspapers so that they are more likely to take an informed editorial stance regarding the initiative. Because our voter survey analyses suggest that seeking out public media can significantly influence voting behavior, education and advocacy teams must ensure their campaigns are well represented in those forums.

Endnotes

- 1 The proposed amendment to the constitution of the state of Colorado read, "The state shall not discriminate against or grant preferential treatment, to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."
- 2 Nebraska passed this initiative in November 2008, the same election cycle in which it was defeated in Colorado.
- 3 Only voters who indicated they were at least 70% confident they remember how they voted on Amendment 46 were included in the sample. The survey was terminated for all voters who indicated that they were less than 70% confident.
- 4 Of the respondents, 51.3% were female; 16.1% identified themselves as people of color, including 2% identifying as Native American/Alaskan Native, 1% identifying as Asian American/Pacific Islander, 4.3% identifying as Hispanic/Latino, 2.4% identifying as Black/African American, and 6.5% identifying as Multiracial/Multiethnic; 35.1% identified as Republicans, 33.5% as Democrats, 23.5% as Independents (7.9% either identified another party affiliation or refused to answer the question). Fifty-one percent reported voting for Barack Obama. The median age for respondents was 52, with a range of 18 to 92 years old; the median family income was \$65,500, ranging from under \$1,000 to \$7 million. The sample was largely English-speaking, as well. Spanish-speaking survey administrators were available, but only 1% of respondents selected a language other than English as the primary language spoken at home.
- 5 Unfortunately, these search engines did not capture media intended for Spanish-speaking audiences, and although not discussed in this report, serves as a potential platform for future media content analyses.
- 6 The combined number of anti-46 endorsements and editorials totaled 34, compared to 18 pro-46 editorials and endorsements. Some editorial titles with anti-46 sentiments include "Amendment 46 would be a detriment to students" (October 6, 2008, *Loveland Daily Reporter-Herald*) and "Discrimination fight is not over: Despite Obama's success, affirmative action still necessary" (October 26, 2008, *Denver Post*).
- 7 In sum, only 28.2% of respondents were able to articulate that the initiative would prohibit affirmative action policies; just over 5% stated that the amendment would protect affirmative action or equal opportunity policies; and the vast majority of voters (66.3%) restated the initiative in a way that did not allow us to determine the perceived impact of the initiative. In sum, few voters explicitly stated that Amendment 46 would preserve affirmative action; instead, the vast majority of responses were deemed "unclear" (*for more detailed description of the open-ended analyses, see Appendix D*).
- 8 For the purposes of illustration, in Figure 1 we have fixed values for INFOIND, INFOREC, and CAMPAIGN at their means (0), and COLLGRAD at its mode (1).
- 9 The estimate associated with Figure 1 is for a *specific* prototypical voter—someone whose attitudes toward affirmative action fall at the mean score of all voters who were confused. On page 5, the claim that confusion makes voters 4.5 times more likely to vote "Yes" refers to the *overall* effect of confusion.
- 10 While confusion could have caused voters with negative attitudes toward affirmative action to inadvertently vote "No" on 46 (thus artificially inflating the tally of "No" votes in the 2008 election), our analyses suggest that very few voters who did not support affirmative action were confused about the intent of Amendment 46.
- 11 It is important to note that although anti-46 door-to-door canvassing was not a campaign activity that was frequently encountered by voters, it is the only campaign activity significantly related to voters' intention to support affirmative action (*see the Analysis of the Influence of Campaign Activities section of Appendix D for further discussion of this point*).
- 12 Multiple instances of frames emerged because one article can invoke many different frames in support of and opposition to Amendment 46.
- 13 In sum, people or groups associated with anti-46 were quoted or mentioned 127 times while people or groups associated with the pro-46 campaign were quoted or mentioned 317 times. Among the top five most cited entities on each side, those associated with the anti-46 campaign were mentioned 60 times while those affiliated with pro-46 were cited 204 times.
- 14 Analysis of survey results do not support this hypothesis. Voters were given the opportunity to indicate if they had voted "Yes," "No on this initiative," or "No on all initiatives." Of the 507 respondents, there were no voters who indicated that they voted "No" across the board for all initiatives on the 2008 ballot.
- 15 Interestingly, door-to-door canvassing was not significantly related to actual voting behavior. That door-to-door canvassing is associated with voters' intended support but not their actual vote is telling; the misunderstanding and confusion surrounding the initiative may have been so pervasive that even when grassroots organizers were able to increase a voter's intended support of affirmative action and equal opportunity, the increase in support did not often translate to actual voting behaviors.

Appendix A: Phone Interview Protocol — Amendment 46 Voter Survey

- 1) **Did you vote in the November 2008 election?**
(Yes, No, Don't remember)
If respondent answers "No" or "Don't remember," terminate interview.
- 2) **I am going to read aloud the text of Amendment 46 that was featured on the November 2008 ballot:**
"The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."
How did you vote on Amendment 46?
(Yes, No on this specific amendment, No on all amendments, Don't remember, Skipped)
If respondent answers "Don't remember," "Skipped," or "No on all amendments," terminate interview. If respondent answers "No on all amendments," please make note of it for data collection purposes.
- 3) **We know that some time has passed since the November vote, and it is not easy to remember how you voted on each ballot initiative. How confident are you that you voted this way?**
(Scale 1–100 percent.)
If respondent indicates < 70% certain, terminate interview.
- 4) **When you voted, did you think a "Yes" vote on Amendment 46 would be in favor of or against affirmative action?**
(In favor, Against, Can't remember)
- 5) **What is your political party affiliation?**
(Republican, Democrat, Independent, Other)
- 6) **Who did you vote for in the 2008 presidential election?**
- 7) **I'm going to list some sources of information that you may have consulted to gather information about Amendment 46. After each one, please indicate how frequently you consulted that source.**
(Never, About once a month, About once a week, Daily)
 - a.) Print and broadcast news reporting, like TV/Radio or newspapers and magazines
 - b.) Online sources, including Internet news sources like CNN.com or blogs like the HuffingtonPost.com or FaceTheState.com, etc.
 - c.) Friends and family
 - d.) Union or professional organization voter recommendations
 - e.) Political party voter recommendations
 - f.) Religious organization voter recommendations
 - g.) Chamber of Commerce voter recommendations
- 8) **Please indicate whether the following campaign activities influenced your vote on Amendment 46.**
(Strongly influenced, Influenced somewhat, Did not influence, Did not encounter this campaign effort)
 - a.) Grassroots communication or informal emails about the campaign
 - b.) Pro-46 campaign emails, mailings, and ads
 - c.) Anti-46 campaign emails, mailings, and ads
 - d.) Anti-46 door-to-door canvassing
 - e.) Public debates about Amendment 46
 - f.) Information about Ward Connerly and his motivations
 - g.) Information about equal opportunity programs in Colorado
- 9) **I am now going to ask you a set of questions regarding your personal beliefs and feelings about affirmative action. There are no wrong answers. For each statement I read, please indicate how strongly you agree.**
(Strongly disagree, Disagree, Agree, Strongly agree)
 - a.) A racially diverse student body is something universities should try to achieve.
 - b.) A racially diverse workplace is something employers should try to achieve.
 - c.) An individual's gender has a meaningful impact on their educational opportunities.
 - d.) An individual's gender has a meaningful impact on their prospects for employment.
 - e.) An individual's race or ethnicity has a meaningful impact on their educational opportunities.
 - f.) An individual's race or ethnicity has a meaningful impact on their prospects for employment.

- g) Success in life is primarily a result of how hard you work.
- h) People who experience disadvantage should receive extra support.
- i) Racism continues to be a pervasive problem, blocking opportunities for people of color.
- j) Affirmative action unfairly discriminates against White people.
- k) Affirmative action is no longer necessary because minorities and women have achieved equal rights and opportunities.
- l) Affirmative action policies have permitted lower quality students to attend universities.
- m) Affirmative action policies have permitted lower quality employees in the workplace.
- n) Affirmative action policies *themselves* inevitably cause racial tension.
- o) Women and minorities admitted or hired under affirmative action policies will feel academically and/or intellectually inferior.
- p) Our new president is Black and the Secretary of State is a woman. This is evidence that affirmative action is no longer necessary to ensure equal opportunity for all people.
- q) Affirmative action policies based solely on socio-economic class would be fairer than those based on race and gender.

10) Thank you for your patience; we have just a few more questions. I am going to read the text of the ballot initiative to you one more time:

"The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."

a) Can you tell me what you think that means, in your own words?

(Open-ended)

Demographic Questions

a) Gender

b) Age

c) Race/Ethnicity

(Native American/Alaskan Native; Asian American/Pacific Islander; Hispanic/Latino; Black/African American; White; Multiracial/Multiethnic)

d) Highest level of education

(No high school or some high school; High school diploma or GED; Some college; 2-year college grad; 4-year college grad; Some postsecondary study; Master's degree or equivalent; MD, PhD, JD)

e) Primary language spoken at home

f) Approximate annual family income

(Please include all sources of income)

Appendix B: Stakeholder Interview Protocol

- 1) **Can you describe your organization? If you were involved, what was your position and role during the Amendment 46 campaign? Can you provide an example of certain activities you were expected to lead or organize?**
- 2) **Why do you think Amendment 46 was defeated? How do you think events unfolded with Amendment 46?**
- 3) **What was your organization's primary message or messages? Do you feel like there was any confusion about the text and intent of Amendment 46? What did your organization say would happen if Amendment 46 passed?**
- 4) **Did you focus on staying on your message or on countering the other side's message? Did messages or strategies focus on the Amendment, preferential treatment, affirmative action, or equal opportunity? Did they focus on discrediting the other sides' sponsors or how the opposing campaign was being run?**
- 5) **What strategies did you use to communicate the message(s)? Was door-to-door canvassing a part of your strategy? What public outreach strategies did your part of the campaign implement to inform the public about Amendment 46?**
- 6) **How did the status of your organization [i.e., non-profit 501c(3) or 501c(4), other] affect its role in campaigning around Amendment 46?**
- 7) **What actions did your organization take that you felt were particularly effective toward meeting your goals? What were less effective? Why?**
- 8) **Did your organization do anything different than in similar past campaigns?**
- 9) **Geographically and demographically, what populations did you target for?**
 - a) Petition signature collection (to get the initiatives on the ballot)
 - b) For public education around the issue
 - c) For getting out the vote
- 10) **What was your organization's budget for this campaign?**
- 11) **What was your organization's timeline for its campaign efforts? Can you talk about how all of those were modified between the point when you started and the end? How did polling information impact the timeline?**
- 12) **Were you surprised by the results of the 46 vote?**
- 13) **If you were re-starting the Amendment 46 campaign from its inception, would you do anything differently? Did you gain skills, new strategies, or insights that can be brought to bear on similar future campaigns? If so, what? What are your organization's next steps on this issue?**
- 14) **Is there anybody else who you think we should talk to?**

Appendix C: Inclusion of Articles in Media

Content Analysis, by Media Type

TABLE C1 shows the percentage of articles categorized by media type. The vast majority of articles came from the *Denver Post* and the *Rocky Mountain News*, while the fewest articles regarding Amendment 46 were published outside Colorado.

TABLE C1. *Descriptive Statistics of Amendment 46 Media Coverage.*

Type of Media (N = 355)	Specific Media Venues
Minor local paper (37%)	<i>Brush News Tribune, Colorado Springs Business Journal, Colorado Springs Gazette, Colorado Springs Independent, Colorado Statesmen, Cortez Journal, Boulder Daily Camera, Daily Reporter-Herald, Daily Sentinel, Daily Times-Call, Denver Business Journal, Denver Daily News, Durango Herald, Grand Junction Free Press, Greeley Tribune, Journal-Advocate, Pueblo Chieftain</i>
Major local paper (32%)	<i>Denver Post, Rocky Mountain News</i>
Television (9%)	<i>ABC7News, CBS4, Channel 2, Channel 3, Channel 7, Channel 9, Channel 31</i>
Internet (9%)	<i>9news.com, Associated Press State & Local Wire, CB4.com, Channel 9-KTVD, DiversityInc, EFE news service, Fox 21, Huffington Post, InsideHigherEd.com, ktar.com, the Forward, Vote NO on 46 website</i>
University paper (7%)	<i>Colorado Daily, Daily Californian, Rocky Mountain Collegian</i>
Non-CO paper (4%)	<i>Chronicle of Higher Education, Chronicle of Philanthropy, Contra Costa Times, Crisis, Omaha World-Herald</i>
Major national paper (2%)	<i>Christian Science Monitor, Los Angeles Times, New York Times, Washington Post, USA Today</i>

Appendix D: Additional Voter Survey Analyses

Statistical Models of Voting Behavior

We modeled the probability of a “Yes” vote on Amendment 46 via binary logistic regression. Independent variables included attitudes toward affirmative action, confusion regarding the intention of the initiative, influences of various campaign activities and public media, and relevant demographic characteristics.

We ultimately modeled the probability of voting “Yes” on the full set of independent variables listed in Appendix B. That model is specified below:

$$P(Y_V = 1) = \frac{\exp(\beta_0 + \beta_1(\theta)_V + \beta_2(CONFUSION)_V + \beta_3(\theta * CONFUSION)_V + \beta_4(COLLGRAD)_V + \beta_5(INFO_{IND})_V + \beta_6(INFO_{REC})_V + \beta_7(CAMPAIGN)_V)}{1 + \exp(\beta_0 + \beta_1(\theta)_V + \beta_2(CONFUSION)_V + \beta_3(\theta * CONFUSION)_V + \beta_4(COLLGRAD)_V + \beta_5(INFO_{IND})_V + \beta_6(INFO_{REC})_V + \beta_7(CAMPAIGN)_V)}$$

In the model above, β is a dichotomous variable that takes a value of 1 if voter ν votes “Yes” on Amendment 46, and 0 otherwise. The probability of voting “Yes” is modeled on attitudes toward affirmative action (θ), confusion over the intent of the ballot initiative ($CONFUSION$), the interaction between affirmative action attitudes and confusion ($\theta * CONFUSION$), college education ($COLLGRAD$), independent consultation of information regarding the amendment ($INFO_{IND}$), consultation of formal voting recommendations ($INFO_{REC}$), and the influence of campaign activities ($CAMPAIGN$).

TABLE D1 includes estimates associated with all independent variables included in the full model. The odds ratios quantify the extent to which the probability of a “Yes” vote increases or decreases in relation to a given independent variable, holding other modeled variables constant. For example, for an individual with a $\theta = 1$ (generally positive attitude toward affirmative action) the odds of voting “Yes” on 46, holding all other variables constant, are reduced 85%

compared to an individual with $\theta = 0$ (neutral attitude toward affirmative action). Thus, as attitudes toward affirmative action become more positive, the likelihood of voting “Yes” on Amendment 46 decreases.

To further illustrate the logistic regression estimates in TABLE D1, we provide eight sample voter profiles in TABLE D2. For each voter profile, we present the estimated likelihood of a “Yes” vote on Amendment 46.

For any given voter profile, independently seeking information about Amendment 46 decreases the likelihood

of a “Yes” vote. Further, attitudes toward affirmative action exhibit a powerful impact on voting behavior. For example, Voter 1, who a) had positive feelings toward affirmative action, b) independently sought information, and c) was not confused about the amendment’s intent, had a 10.5% probability of voting “Yes.” Voter 5—identical to Voter 1, but with negative feelings toward affirmative action—had an 83.3% chance of voting “Yes.” The impact of confusion was equally profound, albeit more complex. For voters with positive feelings toward affirmative action, confusion surrounding Amendment 46 drastically increased the likelihood of a “Yes” vote (compare, for example, Voter 1 and Voter 2). For voters with negative feelings toward affirmative action, confusion reduced the likelihood of a “Yes” vote (compare Voter 5 and Voter 6). We emphasize here, as we have throughout, two important nuances. First, few voters with negative feelings toward affirmative action were confused by Amendment 46. Second, the impact of confusion (represented in TABLE D1 by the main effect Confusion and the interaction

TABLE D1. *Estimates and Odd Ratio for Selected Binary Logistic Model*

Independent Variables	β	Wald χ^2	Sig.	Odds Ratio	95% Confidence Interval—Odds Ratio	
					Lower	Upper
θ	-1.88	29.44	0.000	0.15	0.08	0.30
Confusion	1.51	20.22	0.000	4.54	2.35	8.77
$\theta * \text{Confusion}$	2.88	35.89	0.000	17.90	6.97	46.00
College Graduate	-0.75	4.84	0.028	0.47	0.24	0.92
Information—Independently Sought	-0.45	6.40	0.011	0.64	0.45	0.90
Information—Recommendations	-0.17	1.02	0.313	0.85	0.61	1.17
Influence of Campaign Activities	0.20	1.32	0.250	1.22	0.87	1.72
(Constant)	0.93	8.28	0.004	2.53		

term θ *Confusion) was substantially larger for voters who felt positively toward affirmative action. Because we have modeled both main effects and an interaction effect related to confusion and θ , it is best to interpret these factors in concert rather than in isolation.

TABLE D2. *Estimated Probability of a “Yes” Vote for Selected Voter Profiles.*

Voter Profile	Feelings toward Affirmative Action	Independent Info Seeking	Confusion	Probability of “Yes” Vote
1	Positive	High levels	Not confused	10.5%
2	Positive	High levels	Confused	90.5%
3	Positive	Low levels	Not confused	22.6%
4	Positive	Low levels	Confused	95.9%
5	Negative	High levels	Not confused	83.3%
6	Negative	High levels	Confused	55.9%
7	Negative	Low levels	Not confused	92.5%
8	Negative	Low levels	Confused	75.7%

Analysis of the Influence of Campaign Activities

We used binary logistic regression to explore the impact of various campaign activities on voting behavior. Only one of these activities was significantly related to the outcome of the vote—anti-46 emails, mailings, and advertisements. Controlling for feelings about affirmative action and confusion, voters who reported that they were strongly influenced by anti-46 emails, mailings, and advertisements were 1.4 times more likely to vote “No” on Amendment 46.

However, voting outcomes may not be the most appropriate outcome measure; as we have outlined above, our survey results overwhelmingly suggest that voters were confused about the intent of the initiative. Because individual reports of voting behaviors may be a misleading outcome measure, we modeled the probability of *intending to support affirmative action* on the various campaign activities. In this analysis, only one of the various campaign activities was a significant predictor of the intention to support affirmative action: anti-46 door-to-door canvassing. Controlling for individual feelings about affirmative action, voters who reported that they were strongly influenced by anti-46 door-to-door canvassing were 1.5 times more likely to intend to support affirmative action.

The following equation shows the model used:

$$P(Y_i = 1) = \frac{\exp(\beta_0 + \beta_1(AAFeelings)_i + \beta_2(D2D)_i)}{1 + \exp(\beta_0 + \beta_1(AAFeelings)_i + \beta_2(D2D)_i)}$$

where β_i is a dichotomous variable that takes a value of 1 if voter i supports affirmative action, and 0 otherwise. The probability of supporting affirmative action is modeled on feelings about affirmative action (*AAFeelings*) and the influence of anti-46 door-to-door canvassing (*D2D*).

Open-Ended Analysis

For the final substantive question of the voter survey, respondents were read aloud the text of Amendment 46 and asked to explain what it means, in their own words. To analyze voter responses to this question, three members of the research team independently coded a set of 50 responses, specifically to determine if each voter believed Amendment 46 would prohibit or preserve affirmative action, or if it was unclear given the voter’s response. Initial comparisons of the ratings from each of the three researchers, however, yielded unsatisfactory measures of inter-rater reliability. The research team triangulated their interpretations of the open-ended responses and redesigned the coding scheme. The revised coding scheme not only included more clearly defined codes for the perceived outcome of Amendment 46, but also incorporated four additional codes, each highlighting an important substantive theme that emerged from the initial analyses:

- specific references to affirmative action, something that was notably absent in the text of the initiative,
- references to preferences, racial preferences, and/or some other synonymous term,
- references to discrimination and/or anti-discrimination policies, and
- references to a protected group not explicitly mentioned in the text of Amendment 46.

Each rater then recoded the initial 50 responses using the revised coding scheme. Following these revisions, our measure of inter-rater reliability—Fleiss’s kappa—was 0.83. Although Fleiss’ kappa does not have a measure of significance, convention states that anything between 0.80 and 1.00 can be considered nearly perfect (Landis and Koch, 1977). Once the three researchers had demonstrated sufficient levels of agreement, each of the remaining 457 voter responses were then divided among the three raters for subsequent coding. TABLE D3 summarizes the results from this process.

TABLE D3. *Results from Open-ended Responses Regarding the Meaning of Amendment 46.*

Coded Responses—Restatement of Amendment 46 Text	Percent of respondents with this code
Perceived impact of 46 on affirmative action:	
Preserve affirmative action	5.5%
Prohibit affirmative action	28.2%
Unclear from response given	66.3%
Mentioned affirmative action explicitly	13.6%
Mentioned discrimination	30.2%
Mentioned preferences, preferential treatment, or similar	11.8%
Cited protected classes <i>not</i> included in the initiative	14.8%

Although just over 10% of voters mentioned preferences or preferential treatment in restating the initiative, nearly one third referenced discrimination; this suggests that although the initiative clearly prohibits both things, voters seem to connect more deeply with discrimination, and are nearly three times more likely to evoke issues of discrimination in describing the amendment. Interestingly, nearly 15% of voters specifically cited the initiative’s impact on a protected group of citizens that are not included under Amendment 46. For example, voters repeatedly described the initiative as prohibiting discrimination and/or legally protecting individuals on the basis of socioeconomic status, religion, age, and sexual orientation. We interpret this to mean that many individuals mistakenly conflate these “civil rights initiatives” with broader anti-discrimination laws and policies.

Latent Trait Item Analysis Explanation

Item-response theory (IRT) is a model-based approach to measuring latent traits. In our analysis of the 17-question survey, we applied a one-parameter logistic (1PL) partial credit model—part of the Rasch family of Item Response Theory models—to estimate voters’ latent attitudes toward affirmative action.

One strength of the 1PL model is that it allows us to model the probability of a given item response as a function of *both* voters’ attitudes, or θ , and the item’s “difficulty,” or β_i . In a traditional testing context, an item’s difficulty can be

interpreted as the ability required to answer that item correctly. Items with high values of β_i are considered more difficult and thus have a lower probability of correct response; items with low values of β_i are considered easier items, and are associated with a higher probability of correct response. When we are measuring attitudes, item difficulty represents the level of positive feelings required to respond positively to a given item. For example, in our survey of attitudes toward affirmative action, an easy item could be defined as one to which people are likely to respond positively, even if the respondent generally opposes affirmative action.

Estimates of item difficulty help us assess the palatability of various statements about affirmative action. TABLE D3 on the next page presents the difficulty estimates for each of the 17 items included in the latent trait model, sorted from easiest to hardest. Generally, items that focus on the value of diversity or that deny the lasting effects of inequality were relatively easy, while items focusing on meritocratic ideals and the potential dangers of affirmative action were more difficult. These findings have substantive implications for the political campaigns surrounding affirmative action initiatives. Items that are “easy” relative to the others can be interpreted as the arguments most palatable to voters, particularly those with reservations about affirmative action policies. Similarly, more difficult items can be thought of as less palatable, and would likely cause voters with moderate feelings about affirmative action to respond negatively.

TABLE D4. *Relative “Palatability” of Latent Trait Items, Sorted by Item Difficulty (β_i)*

Latent Trait Items	Difficulty (β_i)	% Responding in Favor of AA
A racially diverse student body is something universities should try to achieve.	-1.46	80.1
Women and minorities admitted or hired under affirmative action policies will feel academically and/or intellectually inferior.*	-1.32	78.2
A racially diverse workplace is something employers should try to achieve.	-1.13	75.7
Affirmative action is no longer necessary because minorities and women have achieved equal rights and opportunities.*	-0.56	64.2
Our new president is Black and the Secretary of State is a woman. This is evidence that affirmative action is no longer necessary to ensure equal opportunity for all people.*	-0.44	61.8
People who experience disadvantage should receive extra support.	-0.39	58.7
An individual’s gender has a meaningful impact on their prospects for employment.	-0.36	59.8
Affirmative action unfairly discriminates against White people.*	-0.34	59.1
An individual’s race or ethnicity has a meaningful impact on their educational opportunities.	-0.29	57.3
Racism continues to be a pervasive problem, blocking opportunities for people of color.	-0.29	57.9
Affirmative action policies based solely on socio-economic class would be fairer than those based on race and gender.*	-0.22	56.4
An individual’s race or ethnicity has a meaningful impact on their prospects for employment.	-0.19	57.4
Affirmative action policies have permitted lower quality employees in the workplace.*	-0.15	54.3
Affirmative action policies have permitted lower quality students to attend universities.*	0.41	43.1
Affirmative action policies themselves inevitably cause racial tension.*	0.49	41.0
An individual’s gender has a meaningful impact on their educational opportunities.	0.68	38.0
Success in life is primarily a result of how hard you work.*	1.82	16.2

* Items have been “reversed” for the purposes of analysis (meaning that disagreement with these items is associated with positive feelings about affirmative action). For example, 78.2% disagreed with the statement that “women and minorities admitted or hired under affirmative action will feel academically and/or intellectually inferior,” and therefore responded in favor of affirmative action.

Appendix E: Coding Scheme Used to Categorize Frames in Support and Opposition of Amendment 46

We drew our initial set of codes from a media content analysis conducted by Richardson & Lancendorfer (2004) to see how journalists framed affirmative action. We then developed our own codes relevant to Amendment 46, emphasized in italics.

TABLE E1. *Codes to Categorize Frames that Oppose Amendment 46.*

Remedial Action (RA)
RA1 = Historical discrimination (e.g., slavery, Jim Crow, segregation, etc.) RA2 = Current discrimination and inequities (e.g., racism, salary gap, etc.)
Diversity (D)
D1 = Learning: Diversity enriches educational institutions and helps students D2 = Leaders: Beneficiaries of affirmative action can be role models or leaders who serve underprivileged communities D3 = Competition: Diversity helps U.S. be more competitive in a global economy D4 = Growth: University population should reflect state demographics <i>D4prop = After Proposition 209, admission rates decreased at elite University of California schools</i>
Social Justice (SJ)
<i>SJ1 = Any reference to "equal opportunity"</i> <i>SJ2 = Any reference to redistribution of power or leveling the playing field</i> <i>SJ3 = Anti-affirmative action affects recruitment, retention, and scholarship programs</i> <i>SJ4 = Merit must be re-defined beyond numbers</i>
Misleading (M)
<i>M46 = Language and intent of Amendment 46 is purposefully misleading; process of gathering signatures for ballot was fraudulent or questionable</i> <i>M82 = Language and intent of Initiative 82/Amendment 61* is purposefully misleading</i> <i>M2 = References Ward Connerly (creator of Amendment 46) as a carpetbagger</i>
Confusing (C)
<i>C1 = Language and intent of Amendment 46 is confusing and undefinable (but not necessarily deceptive)</i>

* Initiative 82/Amendment 61 were countermeasures to Amendment 46 excluded from the state ballot.

TABLE E2. *Codes to Categorize Frames that Support Amendment 46.*

No Preferential Treatment (NPT)
NPT1 = Any references to unearned, unqualified, meritocracy NPT2 = Any references to preferential treatment, discrimination, reverse discrimination, fairness or double standard, or being born with wrong biology (gender or race) NPT2EO = Any reference to equal opportunity NPT3 = Beneficiaries of affirmative action are harmed since people second-guess their ability NPT4 = Socioeconomic status should be considered in terms of need <i>NPT5 = Any references to post-racial or multi-racial; race is undefinable; Obama is proof</i> <i>NPT6 = Affirmative action must be open to all</i> <i>NPT7 = Taxpayer dollars should not be used to discriminate</i> <i>NPT8 = Color-blind</i> <i>NPT9 = After Proposition 209, admissions and retention rates increased at 7 University of California schools</i> <i>NPT10 = Women and people of color can stand on their own two feet</i>
Misleading (M)
<i>M82 = Language and intent of Initiative 82/Amendment 61* is purposefully misleading</i>

* Initiative 82/Amendment 61 were countermeasures to Amendment 46 excluded from the state ballot.

Appendix F: Detailed Media Analysis Classifications

TABLE F1. Frequency of Anti-46 and Pro-46 Newspaper Editorials, Op-eds, and News.

	Anti-46			Pro-46			Balanced			Tangential			Total
	Eds.	Op-ed	News	Eds.	Op-ed	News	Eds.	Op-ed	News	Eds.	Op-ed	News	
<i>Boulder Daily Camera</i>	4	3	3	0	2	5	0	0	7	0	0	9	33
<i>Colorado Daily</i>	1	2	7	1	1	0	1	0	5	0	0	4	22
<i>Colorado Springs Gazette</i>	0	1	3	5	1	4	0	0	9	0	0	0	23
<i>Denver Business Journal</i>	2	0	0	0	0	0	0	0	0	0	0	1	3
<i>Denver Post</i>	7	1	1	0	4	1	0	0	10	4	1	15	44
<i>Durango Herald</i>	1	0	1	0	0	1	0	0	2	0	0	1	6
<i>Grand Junction Daily Sentinel</i>	0	0	0	1	0	0	0	0	0	0	0	1	2
<i>Greeley Tribune</i>	1	0	1	0	0	0	0	0	1	0	0	2	5
<i>Longmont Daily Times-Call</i>	1	0	1	0	1	2	0	0	2	0	0	3	10
<i>Loveland Reporter-Herald</i>	1	0	1	0	1	1	0	0	2	0	0	6	12
<i>Rocky Mountain News</i>	1	3	6	8	4	5	0	0	20	2	0	15	64
Total	19	10	24	15	14	19	1	0	58	6	1	57	22