



# **Equal Opportunity in Colorado:** ***Successful Strategies to Inform the Public***

# Acknowledgements

Colorado Unity Co-Chairs:

9to5 National Association of Working Women

Colorado Progressive Coalition

The Colorado Unity Coalition is comprised of more than 50 organizations and individuals committed to protecting and advancing equal opportunity in the state of Colorado. The coalition includes the following organizations: 9to5 National Association of Working Women, American Friends Service Committee, Colorado Anti-Violence Program, Rights For All People, FRESC, American Jewish Committee, Colorado Progressive Coalition, Mi Familia Vota, NAACP, SEIU, Denver Women's Commission, Colorado Hispanic Bar Association, League of Women Voters of Colorado, Colorado Organization for Latina Opportunity and Reproductive Rights, United Food and Commercial Workers, and others.

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## Table of Contents

- I. Introduction ..... Page 2
- II. Equal Opportunity: A History of Threats ..... Page 3  
 Primer: The Chronology of Attacks on Equal Opportunity
- III. Phase I: Public Education—The Colorado Unity Coalition ..... Page 5
  - a. Types of Organizations Involved
  - b. Field Strategy
  - c. Messaging Strategy
- IV. Phase II: Informing The Public About Why a NO Vote on Amendment 46 was the Right Vote..... Page 7
  - a. 2008 Colorado Landscape and Election Climate
  - b. Grassroots Committee & Campaign Field Targeting in Phase II
  - c. Furthering the Messaging and Communications Work of Phase II
  - d. Media Strategy
  - e. Legal Strategy
- V. Important Highlights from Both Phase I and Phase II..... Page 16  
 Developing Structures, Outreach and Raising Resources for Success
- VI. Final Thoughts ..... Page 18

## Introduction

This resource guide represents a compilation of the materials and resources used in Colorado to execute successful public education strategies regarding the importance of equal opportunity policies in that state. In addition, as Colorado in 2008 became the first state to defeat (51-49%) an anti-equal opportunity ballot initiative (Amendment 46) by popular vote, this guide also provides a record of the tactics and lessons learned around a broad range of strategies, including: public education about the importance of equal opportunity programs; grassroots outreach; fundraising; messaging; media; and legal strategies.

The work presented in this resource guide is divided into two phases: public education and communications about the importance of equal opportunity policies; and the tactics and lessons learned around defeat of Amendment 46. It is important to note that these two phases were planned and implemented with separate funding streams, resources, and tactics.

-Colorado Unity Grassroots Committee (9to5, National Association of Working Women- Colorado Chapter, ACLU of Colorado, Colorado Organization for Latina Opportunity and Reproductive Rights, Colorado Progressive Coalition, FRESC for Good Jobs and Strong Communities, The Latina Initiative, and the Faith, Student and Business outreach coordinators of the 9to5 and CPC Base- and Infrastructure-Building Project, and community leaders/members.)

## Equal Opportunity: A History of Threats

Colorado was one of many states whose equal opportunity policies, including affirmative action, were targeted by opponents of these policies. Ward Connerly, a California businessman credited with starting the anti-equal opportunity ballot initiative movement, first came to Colorado in 1996 to try to qualify his initiative for the ballot. While he was unsuccessful at the time, efforts in the state to inform the public about the importance of the policy, debunk myths about it, and create a firm foundation of public support for it continue to this day.

### **Primer: The Chronology of Attacks on Equal Opportunity**

While direct attacks to affirmative action at the federal level have been minimal since the late 1990's, equal opportunity opponents have focused primarily at the state policy level. These challenges have come through attempts to pass legislation in state legislatures, or the pursuit of state ballot initiative campaigns.

The national spotlight on Ward Connerly as the spokesperson for anti-affirmative action and other equal opportunity policies provided him a sounding board and financial support from national, ultra-conservative political funders and strategists. Following the 1996 passage of the Proposition 209 ballot initiative in California, Connerly formed the American Civil Rights Institute (ACRI) in 1997 to export similar anti-equal opportunity ballot initiatives from California to other states using the same tactics.

Connerly and the ACRI first exported the ballot measure to Washington state where it ultimately passed into law with 58% voter approval. The ACRI also worked to get a measure on the ballot in the 2000 Florida election. However, the civil and human rights community came together to push back on ACRI and file legal challenges. The Florida Supreme Court put restrictions on the petition language, and Governor Jeb Bush later implemented, through a program called "One Florida," key portions of Connerly's proposal through executive order.

In 2003, Connerly helped place another measure (Prop. 54) on the California ballot that would have

prohibited the state from collecting data to classify any person by race, ethnicity, color, or national origin, with some exceptions. State and national organizing efforts worked to defeat the measure, making the case that it would be difficult to track health disparities and fight disease, housing discrimination and racial profiling activities across California. The measure was largely criticized with many noting that not being able to collect this sort of data would prevent using demographic data for important public health and scientific purposes. The measure was defeated (36-64%).

Then came the challenges at the U.S. Supreme Court. In a landmark case, in June 2003, the Supreme Court upheld the use of race conscious policies in the case of *Grutter v. Bollinger*, where race was used as one of many factors in the admission of students to the University of Michigan's law school. In a companion case that did not create new legal precedent, the Supreme Court ruled in *Gratz v. Bollinger* that the University of Michigan had violated the 14th Amendment rights of two white undergraduate students by utilizing a point system for admissions to the undergraduate schools. Following this ruling, Jennifer Gratz invited Connerly to Michigan to introduce and campaign for his anti-equal opportunity ballot initiative. An attempt was made by Connerly and allies to qualify the ballot initiative for the 2004 Michigan ballot. However, Connerly was unsuccessful due to a lack of support from voters. Instead the initiative was on the Michigan ballot in 2006, where it passed (52-48%).

It is believed that Connerly's success prior to Colorado may be at least in part because the language used on the petitions and typically put forth on the ballot misrepresents – and therefore disguises – the true intent of the initiative(s). This belief was confirmed by University of Colorado researchers in a 2010 report *Investigating the Defeat of Colorado's Amendment 46: An Analysis of the Trends and Principal Factors Influencing Voter Behaviors*.

There is some evidence as well that when voters are faced with the proposal's actual intent – i.e. to roll back equal opportunity by banning affirmative action – they tend to oppose the ballot language. For example, in 1998, voters in Houston rejected a proposed initiative to end the city's affirmative action programs, because

the wording of the initiative was changed to reflect the true intent of the proposed initiative.

In early 2007, Connerly launched a national campaign that he named “Super Tuesday for Equal Rights”, which aimed to dismantle equal opportunity policies and programs by running ballot initiatives in up to 12 states. He narrowed in and focused on qualifying his anti-equal opportunity initiatives for the ballot in five states: Arizona, Colorado, Missouri, Nebraska and Oklahoma. Although campaign staff was hired in each state, Connerly’s measures failed to make it onto the ballot in Missouri, Oklahoma and Arizona, due to successful legal challenges, “decline to sign” efforts, and public education. The ballot measures in both Colorado and Nebraska were placed on the ballot and voted on by the voters of each respective state. Voters in Nebraska approved the anti-affirmative action measure, Initiative 424. Colorado voters rejected Amendment 46 (or the Colorado Civil Rights Initiative) by a very slim margin and became the first state to defeat the issue statewide at the ballot box.

## Phase I: Public Education

### The Colorado Unity Coalition

The Colorado Unity coalition, the statewide entity which served as the organizing table for public education around the important role equal opportunity policies have in the state of Colorado, was an essential foundation and hub for a host of related work with community groups, the media, and the general public. It served as the planning committee to launch public education efforts around why equal opportunity policies are fair and needed in Colorado. Formed in 1996 to conduct grassroots education and advocacy around state attacks on affirmative action, Colorado Unity consists of individuals, organizations, businesses, and community groups committed to promoting effective equal opportunity policies. Since its formation, the coalition has led the efforts in Colorado to protect and expand equal opportunity, including access to employment, contracting and higher education.

#### **A storied history of Colorado Unity's leadership:**

- 1996: Successfully prevented anti-equal opportunity ballot initiative (initiative proponents failed to turn in enough signatures to qualify)
- 1997 and 1998: Defeated anti-affirmative action bills at the state legislature.
- 1999 and 2000: Supported unsuccessful proactive legislation to reinstate state personnel rules to ensure equal opportunity in state jobs.
- 2003: Led coalition-building, organizing and media campaign to oppose Governor Bill Owens' anti-affirmative action position.
- 2004: Led a nationally-recognized effort to defeat a sweeping legislative attack on affirmative action in Colorado.
- 2008: Served as the leaders and coordinators of research, education, organizing, advocacy and communications efforts that supported the campaign's defeat of Amendment 46.

The structure of the Colorado Unity coalition as it had developed was:

*Working group:* Co-chairs of Colorado Unity, the conveners of the coalition

*Steering Committee:* Co-chairs of Colorado Unity, sub-committee chairs, and representatives of the coalition member organizations and the faith and business

communities

*Sub-committees:*

Policy/Legal Committee

Speaker's Bureau Committee

Grassroots Committee

#### **Public Education Types of Organizations Involved**

Each organization and volunteer on the Grassroots Committee (see introduction for full list), and most on the broader coalition Steering Committee, played a major role in the field efforts within the Colorado Unity coalition's Phase I, and later in Phase II to defeat Amendment 46. While each organization's efforts varied by size and capacity, they all led canvasses and phone-banks targeting their members and constituents to inform them about the need for equal opportunity in the state. Later, during the political phase of the campaign, they re-contacted these people to register and remind them to vote. Members of the committee played other roles within the coalition, such as organizing the speakers bureau, leading messaging trainings, creating and distributing materials, and securing radio ads.

Additionally, the Grassroots Committee and the Base-Building Project engaged organizations not on the committee including local grassroots organizations, statewide organizations and unions. These groups participated in the campaign mainly by focusing on defeat of Amendment 46, which is discussed below in the context of Phase II.

In addition to creating and providing maintenance for what continues to be a diverse, statewide effort to inform people about the need for equal opportunity, the other critical component of the Colorado Unity coalition's success in informing various Colorado constituencies about the issue was a values-based messaging campaign that was grounded in message testing and polling. This was an essential part of the Public Education work of Phase I.

#### **Public Education Field Strategy**

Our field strategy was critical to our success. It focused on educating the public on the value of protecting equal opportunity in the following ways:

- Build and expand the base of supporters of equal opportunity
- Recruit, develop, and maintain volunteers
- Deliver our message to community members using credible messengers

- Ensure the public had the resources needed to understand the issues on the ballot
- Build a diverse coalition of organizations

### **Public Education Messaging Strategy**

Over the course of two years, members of the Colorado Unity coalition conducted polls to shape messages and inform strategy around how to educate the public on the importance of equal opportunity. These polls were conducted by different firms, had different aims, and sampled different populations of voters.

### **The Leadership Conference on Civil and Human Rights/The Leadership Conference Education Fund/Colorado Unity**

The Leadership Conference commissioned research (e.g., poll, focus groups) in partnership with the Colorado Unity coalition. The research was an important tool to better understand perceptions about the need for affirmative action among a diverse sample of Coloradans. We learned that there was a lot of misinformation about affirmative action and that traditional “affirmative action” language had been tainted, which supported our subsequent work with the Opportunity Agenda to reframe the issue as equal opportunity. We also learned that Coloradans strongly supported specific aspects of equal opportunity, namely pay equity and educational opportunity for all, which helped inform our future messaging and education efforts.

#### **Amendment #46**

*Be It Enacted by the People of the State of Colorado:*

Article II of the constitution of the State of Colorado is amended by the addition of the following section:

#### **SECTION 31. NONDISCRIMINATION BY THE STATE**

(1) 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) This section shall apply only to action taken after the section’s effective date.

(3) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(4) Nothing in this section shall be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.

(5) Nothing in this section shall be interpreted as prohibiting action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(6) For the purposes of this section, “state” shall include, but not necessarily be limited to, the State of Colorado, any agency or department of the state, any public institution of higher education, any political subdivision, or any governmental instrumentality of or within the state.

(7) The remedies available for violations of this section shall be the same, regardless of the injured party’s race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing Colorado anti-discrimination law.

(8) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

## Phase II: Informing The Public About Why a NO Vote on Amendment 46 was the Right Vote

Again, separate resources and strategies were used to deploy the political campaign that led to the defeat of Amendment 46. It was important to utilize separation between strategies and resources to not jeopardize the tax status of the organizations involved, and/or to stay within the requirement of agreements with funders. Non-political activity also took place during Phase II.

The 2008 election climate in Colorado, and the country as a whole, is important to note in the context of the historic vote to defeat Amendment 46. It is also important to provide background on the Colorado electorate itself and the strategy used to reach voters.

### a) 2008 Colorado Landscape and Election Climate

The victory on Colorado’s Amendment 46 was hard fought, with many complicating factors that both advanced and hindered critical dialogue regarding affirmative action policies and equal opportunity.

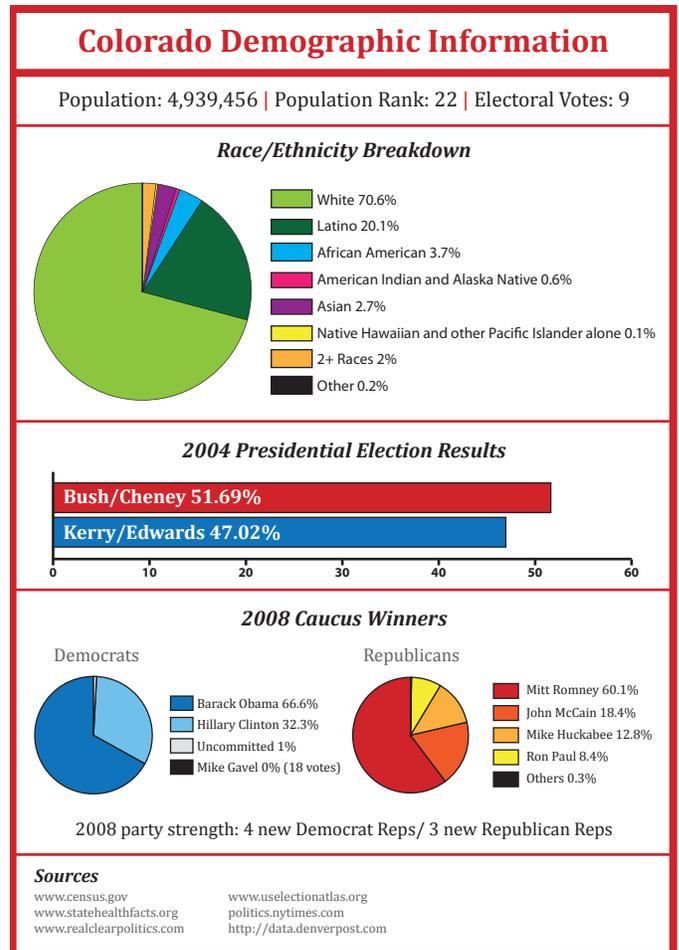
The first and most omnipresent issue was the presidential election. With a prolonged Democratic primary fight, in which people of color and women candidates were strongly favored, the issues of race, gender and equal opportunity were discussed candidly among the media and at the very basic grassroots level. In Colorado, the issue became more local and dramatized as Denver hosted the 2008 DNC Convention. The examination of race, gender and merit continued in the general election as Senator Barack Obama became the presidential nominee for the Democratic Party and Governor Sarah Palin advanced as the Vice-Presidential nominee for the Republican Party. Arguments in favor of and against affirmative action policies were made, with the high-level candidates used as examples from both sides to make their cases. Voter engagement, especially among young voters, new voters and low-propensity communities, also dramatically increased.

Colorado’s electoral landscape at the state level also created unique challenges and opportunities to protecting affirmative action in public education, contracting and employment. Colorado was faced with an open U.S. Senate seat and a hotly contested congressional

race in the eastern plains, both of which garnered national attention and investment from political donors. Further, the state ballot was filled with 14 initiatives and four referred measures making it one of the longest ballots in the country. The language of many of these amendments and referenda was dense, and many of the issues were complex, with far-reaching effects.

Due to the abundance of high-profile campaigns, traditional political funding structures that might have supported the defense of equal opportunity were completely tapped or virtually non-existent. At the national level, while funders supported public education work, many funders were hesitant to invest in the organizing work to defeat the Connerly initiatives due to his track record of winning at the ballot.

Colorado was a key swing state, and was indicated as a bellwether state to determine the presidential race. From January to September 2008, 215,000 people registered to vote in the state. Of that total, there were nearly 30,000 more newly registered Democrats than Republicans, representing an increase of 26,000 over the same period of time in 2004. The new registrations favored Democrats overwhelmingly in the counties in



and around Denver, where Obama performed especially well to win the state.

Just four years prior, a glimpse at Colorado revealed a Republican Governor, two Republican U.S. senators, five of seven Republican members of U.S. Congress, and a Republican majority in both state legislative chambers. In the 2004 presidential election, neither party seriously targeted Colorado since it was a foregone conclusion that George W. Bush would carry the state. After the November 2008 presidential election, the state looked drastically different with a Democratic Governor, two Democratic U.S. senators, five of seven Democratic members of Congress, and a Democratic majority in both state legislative chambers and newly elected a Democratic President.

### **Population Centers:**

We recognized that while the Denver metro area contains 60% of the state's population, our work could not be confined only to the metro area. The traditional urban progressive base of Denver and the university-town liberalism of Boulder needed to be engaged and inspired early as did the rapidly diversifying suburbs of the metropolitan area that are now a dominant force in statewide politics. In order to ensure that we had a fair chance at building majority support for civil rights and equal opportunity, however, we had to go far out in Colorado to reach other regions lacking a strong civil rights infrastructure or capacity.

The Colorado Springs area is the second largest population region of the state (15% of the state's population). Colorado Springs, while noted as one of the U.S.'s most conservative cities, also has a relatively large population of people of color (20%), with strong military presence and a solid African-American community infrastructure, including the state's strongest NAACP chapter.

Northern Colorado, specifically the Fort Collins/Greeley area, has another 15% of the state's population. Greeley, a fast growing, working-class city with a large meatpacking plant and the third largest state university, has a population that is approaching 40% Latino and a very limited civil rights non-profit advocacy infrastructure. Fort Collins, a fast growing middle-class and less diverse community, has the second flagship university in the state; the key economic engine of the community that would have been heavily impacted if affirmative action was threatened.

Southern Colorado, specifically Pueblo, is home to 5% of the state's population and is largely working class, with a 50% Latino population and some civil rights non-profit advocacy capacity.

Through the Base-Building Project, the campaign strategically organized key constituencies and leaders to build strong bases in these four communities which, along with metro Denver, contain approximately 90% of the state's population.

### **Communities of color:**

Communities of color are growing in Colorado and have historically not turned out to vote in high numbers. People of color comprise 30% of the state's population, with Latinos being the largest and fastest growing population in the state. In recent years, communities of color have been seen as influential voting blocs. 2008 saw record turnout for a number of reasons, including extensive on-the-ground work, and the historic nature of the country's first viable African American presidential candidate.

*Latinos:* In 2008, Latino voters demonstrated their strong desire to have their voices heard in America's democracy. More than 122 million voters participated in the election; the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund estimates that between 9.6 and 11 million Latino voters cast ballots throughout the U.S., making it the largest turnout of Latino voters in the country's history. In Colorado, a recent influx of new Latino residents changed the political landscape.

### **Density of ballot initiatives:**

Colorado had 14 ballot initiatives on the 2008 ballot, making it the longest ballot in Colorado's history. All of the initiatives were put on the ballot to increase turnout for base communities; conservative and progressive. This was not coincidental; the hope of those running the initiatives was that people would turn out to vote on the issues, and their participation would influence the candidate races in Colorado. There were initiatives proposing to increase AND limit how the state spends and raises revenues, alter the relationship between business and labor, threaten reproductive and civil rights, and alter the democratic process.

### ***b) Grassroots Committee & Campaign Field Targeting in Phase II***

While organizations on the committee could reach groups of people in Denver and in the targeted base-building communities, other groups were able to help reach people in additional communities. One of the

benefits of having the non-political Colorado Unity coalition in place was that the organizations involved conducted many of these same activities. Large union groups were fighting anti-union ballot initiatives in 2008, and also urged their constituents to vote no on 46, allowing the campaign to contact union households that we may not have otherwise reached. Examples of organizations that conducted both political and non-political public education activity include: Colorado Unity and allied organizations, ACORN, Mi Familia Vota, SEIU, community activists, Feminist Majority, League of Women Voters, Anti-Defamation League, American Jewish Committee, African American Voter Information Project, LARASA, Denver Hispanic Chamber of Commerce, Colorado Council of Churches, and NAACP Colorado Springs.

**To defeat Amendment 46 on the ground, we used multiple tools and tactics, including:**

- Speakers Bureau
- Base building
- Coordinated door-to-door canvassing, phone banks and literature drops
- Tabling and events
- Yard signs and bumper stickers
- Media

The field strategy to defeat Amendment 46 could only be successful by being on the ground, educating voters, but knocking on doors and talking about equal opportunity is not as simple as it sounds. We were keenly aware of the challenges of informing the public about the importance of equal opportunity because many of us had been involved in the Colorado Unity coalition before becoming involved in the Phase II, political context, of our work. We also knew that the opponents of equal opportunity and the deceitful efforts they deployed needed to be exposed. Before the ballot initiative was set, we worked to expose the deceitful efforts used by the opposition while gathering petition signatures and launched a campaign encouraging voters to “decline to sign” the petition. While this campaign didn’t keep the initiative off the ballot, it focused media attention on the misleading efforts of the petition gatherers and raised questions about their credibility and truthfulness with Colorado voters. Once the Secretary of State certified the petitions, and Amendment 46 was on the ballot, we launched our Vote No on 46 efforts.

As explained in the Fundraising section, money raised by the No on 46 campaign had to be utilized for

campaign expenditures. While the grassroots efforts had a No on 46 message, money for the campaign was not utilized by the 501(c)(3) organizations, and was fundraised as a part of each organization’s individual outreach plans.

**Base Building**

The Base-Building effort was a joint 10 month project of Colorado Progressive Coalition (CPC) and 9to5, National Association of Working Women – Colorado Chapter. This project consisted of targeting four non-metro Denver communities: Fort Collins, Greeley, Colorado Springs and Pueblo, and three demographic areas: Business, Faith and Students. Each demographic had its own coordinator, who had extensive understanding of and experience with that community, dedicated to specific outreach and messaging work. Each of the Base-Building organizers also served on an advisory committee for the campaign.

**Business:**

- Educated the business community and later gathered endorsements and support for the No on 46 efforts
- Organizer was well-connected to the Colorado business community with many years of experience as former Regional Director of the U.S. Small Business Administration

**Faith:**

- Organized, educated and mobilized the faith community
- Organizer was a respected Reverend and connected to the Colorado Council of Churches
- Encouraged faith communities to continue the liberating work of their faith tradition by confronting moral issues related to discrimination

**Student:**

- Worked on major campuses in collaboration with student groups and student governments
- Organizer was working in conjunction with the United States Student Association and was a recent college graduate
- Registered students to vote and educated them about Amendment 46’s impact on higher education

We also worked with the League of Women Voters to get information to their members and the public through their election resource materials and at community forums and debates they sponsored throughout the state, including in areas where the coalition did not

focus its efforts. Additionally, we reached out to a broad range of other organizations and elected officials, eventually building an impressive list of opponents to Amendment 46.

### Field Plans

To implement our field strategy, each organization on the Grassroots Committee created a specific field plan to get out the vote. Coalition groups were responsible for the execution of base outreach, campus outreach and voter engagement goals. These groups came together from a variety of backgrounds and with varying levels of capacity. The coalition consisted of groups representing people of color, low-income people, workers rights, reproductive rights, youth, women, and the LGBTQ and faith communities. These groups each targeted various constituencies. Field plans included efforts such as door-to-door canvassing, phone banks, and literature drops.

### The “Final Four”

In the “Final Four” days leading up to Election Day, FRESC Good Jobs Strong Communities convened 11 nonpartisan organizations focusing on opposing many different 2008 ballot measures to come together for a massive collaborative Get-Out-The-Vote effort. We developed a common message with a theme of “Vote No on the 40s and 54: They’re bad for our families and our futures,” and we produced collaborative campaign literature to leave at the doors. We engaged and prioritized low-propensity voters statewide who had not yet voted early or by mail. The collaborative effort included 9to5 National Association of Working Women, ACORN, African American Voter Information Project, American Civil Liberties Union, Colorado Fiscal Policy Institute, Colorado Immigrant Rights Coalition, Colorado Organization for Latina Opportunity and Reproductive Rights, Colorado Progressive Coalition, FRESC Good Jobs Strong Communities, Planned Parenthood of the Rocky Mountains, and the White House Project. This collaboration bridged relationships between organizations who work separately on reproductive justice, labor (who provided the central point of operation as well as volunteers for this effort), civil rights, and women’s issues. All but one of the five initiatives targeted in the last days before the election were defeated.

### SIPP

Several of the Colorado organizations that worked to defeat Amendment 46 in the field also participated in

the State Integration Pilot Project (SIPP), a national project coordinated by Notre Dame Professor David Nickerson. The goal of this project was to conduct scientific research to evaluate the effectiveness of varied non-profit grassroots field techniques and the level of impact they have on a political campaign.

### *c) Furthering the Messaging and Communications Work of Phase II*

#### Polling

Polling is an important part of any campaign to defend equal opportunity, and allowed us to determine how diverse communities of voters perceived the issue and test messages. When constructing a poll, the audience must be carefully selected. Race, gender, geography, religion, age, income and more are important factors to consider in choosing sample size and makeup. For organizations targeting women or people of color, oversampling these communities helps to see what messaging works best. While polling creates a good framework for messaging, there are other factors to consider including what issues resonate in our on-the-ground organizing work. For example, some of our poll results suggested that messaging should focus mainly on gender; however, we chose to also talk about the impacts on communities of color because of our long-term work organizing in those communities.

Members of the Colorado Unity coalition conducted additional polls to shape message and inform strategy around how to educate the public on the importance of equal opportunity. These four polls were conducted by different firms, had different aims, and sampled different populations of voters.

1. The Leadership Conference on Civil and Human Rights poll regarding Connerly language and impact of introducing alternative ballot language. One of strategies deployed in Colorado that had been discussed but not attempted in other states was the use of an alternative ballot initiative. After a year of meetings among key state and national leaders, language was developed and tested in a statewide poll with voters. The results suggested that the language could bring the support of Connerly’s initiative down if used as a point of contrast on the ballot.
2. The Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR) poll was different from The Leadership Conference poll in several ways. First, it exclusively sampled likely Latino voters.

Secondly, it tested how voters would be moved on multiple issues. In 2008, Colorado faced a statewide ballot measure that would define personhood as beginning at the moment of fertilization. The poll found that it was easier to convince voters to oppose both measures when presented together. The COLOR poll demonstrated that a multi-issue values-based frame was the most resonant way to talk to Latinos. The results of this poll also led 9to5 and CPC to test the idea of opposing four sequential ballot measures as a strategic message.

3. The September 28 joint poll commissioned by 9to5 and Colorado Progressive Coalition for Colorado Unity sought to test the most effective messages and messengers to convince voters to oppose Amendment 46. Various public figures from the Governor to the Mayor of Denver were tested, as were different messages. The sample was very general and targeted the key state media markets. The first part of the poll confirmed previous polling that our side was way behind. But, what we learned from the second part of the poll was that if voters received education about the true impact of the Connerly measure, they were less likely to support it.

**Our polling suggested:**

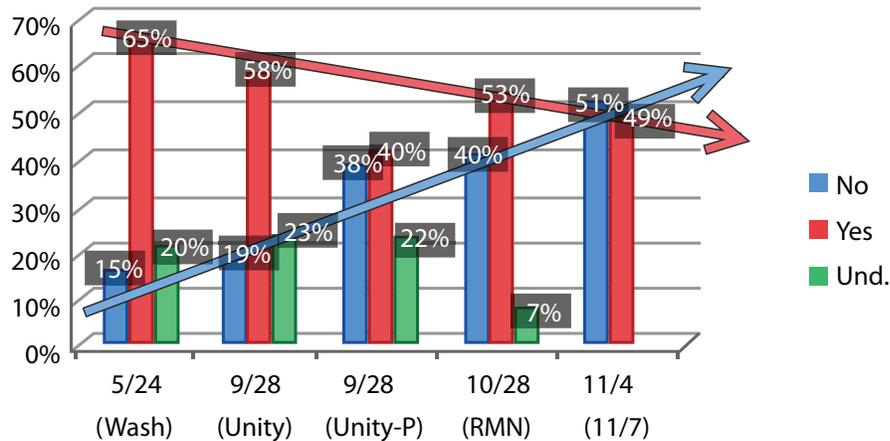
- Equal opportunity was the favored term over affirmative action.
- Voters broadly supported programs to help students of color graduate high school and get into college, decrease the pay gap between women and men, and encourage young fathers to be involved in their children’s lives.
- Voters strongly preferred messaging that discussed the possible threat to programs like domestic violence shelters and boys and girls clubs, although Amendment 46 did not specifically target them.
- Strong focus on gender would be beneficial in messaging.

**On-the-ground action**

- We exclusively used the term equal opportunity in our messaging materials, and did not refer to affirmative action in any of our communications (including our field efforts).
- We highlighted the real impacts of the amendment by talking about initiatives in the state that voters favored overwhelmingly, and tailored our examples to specific audiences/communities.
- Rather than talking about sensationalized impacts, we focused on real impacts with voters.
- We talked about gender and race and focused our messaging on the audience.

**Power of Organizing**

Amendment 46 Polls



### Framing and Language

It is believed that Connerly's ballot initiative success to date may be due at least in part to the misleading language used on the petitions and the persistent misinformation spread by opponents of affirmative action. When voters are faced with the proposal's actual intent – i.e. to roll back equal opportunity by banning affirmative action – and they understand what affirmative action really is, they then tend to oppose the ballot language. As seen in the sections on polling and messaging in this resource guide, the term “affirmative action” has negative connotations among many voters, regardless of race or gender, due to persistent misinformation by the opponents of affirmative action aimed at making it a spoiled term by linking it incorrectly and untruthfully to quotas and reverse discrimination. These findings were reinforced by national research conducted by the Opportunity Agenda which highlighted the consistent and historical trend of increasing negative connotations for affirmative action in the public discourse.

Because of this, we worked with national partner organizations (including The Leadership Conference and the Opportunity Agenda) specializing in communications to utilize new language they developed around equal opportunity. Continuing to talk to voters about affirmative action as a policy was not likely to impact persuadable voters or some of our base communities to support a No on 46 position, nor did it encompass the broad impacts Amendment 46 would have in Colorado. Used consistently and credibly, the new language was found to resonate better with voters.

Therefore, the campaign shifted from problem-based messaging (“Ward Connerly is trying to take away equal opportunity and policies like affirmative action in Colorado”) to values-based messaging (“Everyone deserves a chance to achieve the American Dream”). There are a few reasons why we framed the issue this way.

First, most voters don't know who Ward Connerly is and therefore are not likely to be moved by messaging around him. We found that the most effective way to incorporate Connerly into the messaging was to talk about how he was an out-of-state “carpetbagger” and that the KKK endorsed his efforts in Michigan. In this way, we were able to define him as an outsider and associate him with the most widely recognized hate group in the country.

Secondly, to win the voters' hearts AND minds, we realized that we had to appeal to their values and supplement those values with facts, so that they would feel personally invested in the issue. When voters were personally invested in the issue, they were more likely to oppose Amendment 46 when casting their votes. We shifted our messaging strategy to focus on why equal opportunity is important, which appealed broadly to many communities and constituencies, and we developed messaging infrastructure to discuss a broad and inclusive issue agenda for the long-term.

### Messengers:

Our messengers were credible within their respective communities. The messaging was consistently values-based, but tailored to the various audiences we addressed. Voters trusted a message most when it came from someone within their community. For instance, the business community was more likely to support equal opportunity if they not only heard a targeted message about businesses but if it also came from a business leader.

To ensure that messengers were recognized as trustworthy within their communities, we used lessons learned from both our polling and on-the-ground experiences. We ensured that our messengers stayed on message by providing trainings, disseminating messaging materials to every group that talked about Amendment 46 (including canvass groups, community organizations, media spokespeople and the Speakers Bureau), and providing technical assistance for messengers.

### Messaging

We created targeted messages for specific communities, such as business, students, or people of color. By analyzing the values of a specific community, the problem that Amendment 46 creates for that community, and a potential solution, we then created an “ask” targeted to that community.

For example, when we spoke to students of color:

*Value:* We believe everyone should have a fair shot at a quality education

*Problem:* Amendment 46 would limit opportunities for students of color in higher education

*Solution:* Equal Opportunity initiatives like outreach, mentorship and training programs ensure that everyone gets a chance to compete in public education

*Ask:* Don't let this happen in Colorado. Vote no on Amendment 46.

From this, we created a tailored message: “Because we believe that everyone should have a fair shot at a quality education and Amendment 46 would limit educational opportunities for students of color, we ask you to protect equal opportunity initiatives by voting no on Amendment 46.”

Certain communities also utilized these messaging tools to create joint messages on other issues (such as combining a message on Amendments 46 and 48, the anti-women’s health “personhood” initiative).

Messaging Training materials were developed borrowing from materials developed by The Leadership Conference and the Opportunity Agenda, and used to conduct messaging trainings with partner organizations and communities doing work against Amendment 46 with their own members or with voters. People designated as spokespeople for the No on 46 campaign were required to attend a Speakers Bureau training.

While there was a clearly defined, separate political campaign launched to initiate a campaign against Amendment 46, Colorado Unity was essential in its role as a coalition to conduct educational events and summits, messaging and media, and grassroots advocacy around threats to equal opportunity.

This led to a number of highlights, including the reframing of “affirmative action” to address the broader issue of equal opportunity and the unifying of unusual partners around the issue of equal opportunity, including social justice groups, women’s rights groups, faith leaders and groups, student organizations, reproductive justice groups, immigrant rights groups, health care groups, businesses and labor organizations.

### **Speakers Bureau**

One piece of the successful grassroots effort was the Speakers Bureau, where a variety of speakers traveled around the state to conduct presentations and media interviews and participate in debates and forums. The first step was to identify potential speakers and train them on very specific messaging, and how to practice message discipline. To ensure that we had credible messengers speaking to their own communities, we identified speakers who were diverse among race, ethnicity, gender and sector. Speakers included: activists, businesspeople, lawyers, professors, and nonprofit leaders. We kept our core group of speakers relatively small to ensure that we had consistent, disciplined and recognizable messengers.

Most requests for speakers were streamlined by coalition partners directing requests to the speaker engagement manager, who was an organizer at 9to5, National Association of Working Women. This person was familiar with all the speakers and to which communities they were effective messengers. The speaker engagement manager took requests and filled slots based on multiple factors, such as region of the state and type of request (debate or presentation). The speaker engagement manager was also responsible for obtaining the details of each event and relaying that information to the speaker. Having a speaker engagement manager to coordinate all requests and event details created an effective and streamlined process.

Most of the requests were for presentations to groups, forums and debates.

### **Presentations:**

- Luncheons, dinners, member/board meetings, and other special events
- Speakers given time to talk about equal opportunity and Amendment 46
- Excellent opportunity to reach captive audiences and communities we might not otherwise have access to

### **Forums:**

- Opportunities provided by groups/organizations for attendees to learn about statewide ballot initiatives
- Presenters given time to explain the issue and to answer questions from the audience
- Great way for speakers to engage in a dialogue with attendees

### **Debates:**

- Speakers paired up with spokespeople from the opposition
- Spent 30-60 minutes debating the issue/ballot initiative
- Often televised or aired on the radio, reaching a large audience

The Speakers Bureau provided a wonderful tool for sharing our messages with mainstream audiences. We had access to large groups of people at one time, magnified with media coverage, who were interested in learning more about the issue. Altogether, we participated in over 100 speaking engagements throughout the state.

### **d) Media Strategy**

Since the campaign had very limited resources, we focused very little on paid media as a tactic. Instead, we put our energy into earned media, such as editorial board meetings, televised debates, press conferences and pitching stories to media contacts. Our media messaging was based on the values-based messaging referenced in the previous Framing and Language, and Messaging sections.

#### **Additional media messages we used included:**

- When asked about specific programs, we highlighted modest mentoring, training and recruitment programs that currently exist
- Ward Connerly as an out-of-state millionaire and carpet bagger
- The deceptive language in the ballot initiative
- The impact the initiative had in other states

Our paid media consisted of very limited radio advertising and even more limited Spanish television ads. Two organizations in the Colorado Unity coalition, ACLU and COLOR, as well as the NO on 46 campaign, raised funds for radio ads focusing on the detrimental effects of Amendment 46 and the value of protecting equal opportunity. COLOR's ads targeted Spanish speaking listeners; ACLU's ads played to a broad audience in the Denver metro area: and the campaign's ads focused on northern Colorado and the Western Slope. Additionally, Entravision Communications Corporation donated English and Spanish radio time and production and Spanish television time and production.

We placed a special emphasis on visiting newspaper editorial boards in key communities asking them to oppose Amendment 46. We sent spokespeople who most matched the community demographics, and we answered every question with well-researched facts. The spokespeople explained equal opportunity for the busy editorial staff, told them the modest programs that still existed, and painted a clear picture of the deception being used by our opponents. This strategy was successful, with most major papers in Colorado editorializing against Amendment 46. This ended up being an important and effective strategy for reaching voters with a NO message, especially those voters who were actively seeking more information about the measure.

We also organized press conferences and events to publicize our campaign. We held a successful April 1st "Don't Be Fooled" press conference at the State Capitol to publicize the deceptive tactics being used

by our opponents to collect petition signatures to put Amendment 46 on the ballot. Close to Election Day, we organized a series of press conferences where high profile community leaders and institutions – including the Governor, the state civil rights commission, the Mayor of Denver, and a group of NCAA Division I men's basketball coaches - announced their opposition to Amendment 46. This helped build our momentum in the press and gave the impression that everyone was getting on board to oppose the initiative.

### **e) Legal Strategy**

The legal strategy in response to Amendment 46 was a two-pronged approach with work taking place in both Phase 1 and Phase 2. During Phase 1, the first prong involved efforts to keep the initiative off the ballot. The legal team first challenged the proposed initiative at the Title Board, arguing that the initiative violated Colorado's single subject rule and would consequently confuse voters. This argument was rejected by the Title Board, and the Board's decision was affirmed by an equally divided Colorado Supreme Court. The legal team then challenged the signatures the opposition collected in Denver District Court, where we pointed to a wide range of errors in the circulation process. Our primary focus was on the use of out-of-state circulators who were not registered Colorado voters and therefore could not, by state law, collect signatures for a Colorado ballot initiative. This effort was ultimately not successful in keeping the initiative off the ballot; while there was strong evidence of misconduct, which was not dissimilar from what has been reported in other states, it did not affect enough signatures to drop below the minimum threshold.

During Phase 1, the second prong of the legal effort involved submission of a proposed alternative initiative. The alternative, Initiative 82, used the same first sentence as the anti-equal opportunity initiative, but then defined "preferential treatment" in the second sentence that "[p]referential treatment" means adopting quotas or awarding points solely on the basis of race, sex, color, ethnicity, or national origin", thus preserving the status quo. The benefits of the alternative were, among other things, that 1) it pushed voters to think about the difference between the two and to recognize how overbroad Amendment 46 was; and 2) required the Amendment 46 proponents to spend time and resources combating it.

During Phase 2, we successfully defended the alternative initiative through a Title Board challenge and had it approved by the Board, whose decision was upheld

**Amendment #82**

*(Certified by Title Board on 5/7/08)*

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning a prohibition against discrimination by the state, and, in connection therewith, prohibiting the state from discriminating against or certain forms of granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, education, and contracting; defining preferential treatment to mean adopting quotas or awarding points solely on the basis of race, sex, color, ethnicity, or national origin; preserving the state's authority to take action to establish or maintain eligibility for a federal program; protecting the validity of a court-ordered remedy or consent decree in a civil rights action; and defining "state" to include, without limitation, the state of Colorado, any agency or department of the state, any public institution of higher education, any political subdivision, or any governmental instrumentality of or within the state?

by the Colorado Supreme Court. We began to collect signatures to put the initiative on the ballot. Our effort was made significantly more difficult by the fact that the Connerly people used every possible legal delaying tactic to push our collection efforts later. As a consequence we had only two months to collect the requisite signatures. The Secretary of State's office ultimately concluded that we had not collected enough signatures and the measure did not appear on the 2008 ballot.

While the various legal strategies employed during this campaign were ultimately unsuccessful in and of themselves, they did contribute to the success of the No on 46 effort in a number of important ways. First, they drew attention to the overbroad and deceptive nature of Connerly's measure. Second, they created frequent media opportunities and publicity for our campaign. Third, they focused Connerly's people on responding to the legal arguments and thus pulled them off-message at different points along the way. In fact, the our legal challenges to Amendment 46 and our effort to qualify Initiative 82 for the ballot were cited by our opponents as being among the reasons why Amendment 46 was defeated; they acknowledged that they did not expect to confront that level of opposition through the legal challenge.

**Amendment #46**

*Be It Enacted by the People of the State of Colorado:*

Article II of the constitution of the State of Colorado is amended by the addition of the following section:

## SECTION 31. NONDISCRIMINATION BY THE STATE

- (1) 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) This section shall apply only to action taken after the section's effective date.
- (3) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.
- (4) Nothing in this section shall be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.
- (5) Nothing in this section shall be interpreted as prohibiting action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.
- (6) For the purposes of this section, "state" shall include, but not necessarily be limited to, the State of Colorado, any agency or department of the state, any public institution of higher education, any political subdivision, or any governmental instrumentality of or within the state.
- (7) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing Colorado anti-discrimination law.
- (8) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

## Important Highlights from Both Phase I and Phase II: Developing Structures, Outreach and Raising Resources for Success

Initially, in Colorado Unity's activities to educate Coloradans about the importance of equal opportunity programs, and later during Phase II (shifting to the separate political campaign to defeat Amendment 46), there were several structures, organizations and committees involved in a variety of activities. This meant that everyone who was interested in participating, irrespective of the size of the organization or resources available to them, could access pro-equal opportunity efforts. Each structure within Colorado Unity served a unique purpose which, when working together with the other components of the coalition, had an important impact.

The principle conveners of each of the structures were two organizations that have a long history of non-electoral as well as civic engagement and electoral organizing with low-income women and people of color in Colorado: Colorado Progressive Coalition (CPC) and 9to5, National Association of Working Women – Colorado Chapter (9to5).

### **Community and Voter Education:**

The Colorado Unity coalition, made up of individuals and organizations dedicated to protecting and advancing equal opportunity and affirmative action, served as the coordinating committee to launch advocacy, grassroots, public education activities on equal opportunity. Colorado Unity utilized its membership to organize paid staff and volunteers to educate voters on the benefits of equal opportunity.

### **Legal Strategy and Counter-Initiative:**

Coloradoans for Equal Opportunity (CFEO) was a political ballot issue committee formed in Phase II and co-chaired by two attorneys with long-standing ties to the Colorado Unity coalition. The committee was formed to challenge the legality of language and signatures of Amendment 46 and advance Initiative 82, an alternative ballot measure to Amendment 46. CFEO utilized volunteer and paid signature gatherers to collect signatures to get Initiative 82 on the ballot.

### **Community Outreach:**

The Base- and Infrastructure Building component of the campaign was a joint project of CPC and 9to5. This project consisted of targeting four non-metro Denver communities: Fort Collins, Greeley, Colorado Springs and Pueblo, and three demographic populations: Faith, Business and Students. Contract staff was hired to do specific outreach and messaging to each of the demographic groups, and worked in collaboration with the Colorado Unity Grassroots subcommittee, as well as coordinating with the No on 46 issue committee.

### **Issue Committee:**

The Vote No on 46 (NO46) ballot issue committee, formed in Phase II, was co-chaired by four individuals representing community-based organizations, legal expertise and the public-private sector. The issue committee was responsible for directing the broad public campaign structure to defeat Amendment 46.

### **Campaign Consulting and Management**

It is important to hire a campaign manager/consultant well in advance who has experience working with grassroots as well as political groups. Ideally, it is best to work with a campaign manager/consultant throughout the duration of the electoral cycle. In this instance, two firms were hired at different points, utilizing different skillsets, during Phase 2.

### **Raising and Tracking Financial Resources**

Two streams of work were supported by funds raised for public education and political purposes. These efforts remained separate to comply with the tax status of respective organizations receiving support. There were two types of fundraising: one which contributed to outreach and public education regarding the need for policies that advance equal opportunity; the other to urge voters to oppose Amendment 46.

Overall, the amount of financial support raised was quite low to combat a statewide ballot initiative. Raising money was challenging due to Connerly's track record in other states and many competing candidate and issue campaign funding needs.

With respect to Phase I and Phase II, much of the support for outreach, public education, base building and grassroots organizing was obtained through The Leadership Conference on Civil and Human Rights/The Leadership Conference Education Fund (The Leadership Conference) in their support of the Colorado Unity coalition, as well as Colorado Unity local

coalition member organizations supported by local and national foundations and public and private donors. This was important because the local organizations were equipped to control and utilize the funds, and supplied staff and financial resources.

In Phase II, the organizations that received education and outreach dollars secured commitments from their advocacy partner organizations to support the “Vote No on 46” campaign with their expertise, staff and resources to run an effective campaign. Much of the funding and resources that were put into voter education and outreach came from local organizations committed to canvass with a No on 46 message and/or identify and train others that could permissibly do so under the IRS tax code.

The fundraising/financial component of the No on 46 campaign was a critical part of obtaining the means to disseminate information to voters. The financial contributions assisted in purchasing campaign literature, limited advertising and outreach/marketing material, such as yard signs, flyers, stickers, buttons, mailings, etc. It also created corporate, non-profit and individual monetary commitment to the campaign.

A key part of the campaign fundraising was to create a local Finance and Fundraising Committee. The co-chairs and committee members were individuals and representatives of small business, corporate, non-profit, media, politics and education institutions. Committee members had excellent relationships with a myriad of power brokers in the Denver metro area, and the state. This committee met weekly to discuss key contacts, fundraising accountability and financial updates. Several meetings and fundraisers were organized in various communities.

**Sectors contacted and targeted included:**

- Women & Minority Owned Businesses and contracting associations
- Large, medium and small corporations
- Chambers of Commerce
- Law Firms
- Non-profit organizations
- Banks
- Universities

While the fundraising committee members advanced an aggressive fundraising strategy by presenting at

chamber meetings, roundtables/panels, community organizations and women/people of color organizations, etc. to inform various communities about the campaign and get monetary support, it was still hard to generate adequate resources to place political ads and do the work around launching an effective “Vote NO” message. There were over 100 fundraising pitches in the four months preceding the election, our website included links to obtain financial and volunteer supporters, and email fundraising pitches were sent out to thousands of Coloradans.

Additionally, two major fundraising events were organized – one was at the private home of a prominent minority business owner, the other was a minority small business event organized by several key leaders of color. While the events did not yield significant financial support, they created critical momentum and support for the campaign.

Absent large donations, we were creative with our resources. A small business owner donated in-kind services from her staff to assist the finance committee with organizing fundraisers and making follow-up calls to supporters. We received in-kind staff assistance (website technicians) from two small businesses and organizations, including Progress Now, to assist the campaign in creating a website.

Additionally, thousands of hours of time were contributed in-kind by individuals and organizations to help defeat Amendment 46 including canvass time, material creation, phone banking and trainings.

## Final Thoughts

There was not one specific tactic that led to our successful defeat of Amendment 46. Instead, a number of strategies and factors contributed to our success:

1. Having a **permanent ongoing coalition** dedicated to preserving and expanding equal opportunity helped us hit the ground running if/when an attack came to our state, making it much easier to mobilize our established base and expand to new coalition members.
2. Creating targeted and consistent value-based messages delivered by credible messengers increased our efficacy and efficiency.
3. Using varied field efforts of organizations with different capacities ensured that we reached the number and kind of voters we needed to win. No field effort was too small; all levels of outreach made an impact.



