

July 24, 2020

PROPOSITION 16 – Repeal Proposition 209, the Affirmative Action Amendment

California Proposition 16, the Repeal Proposition 209 Affirmative Action Amendment, is on the California [ballot](#) on November 3, 2020 as a [legislatively referred constitutional amendment](#).

A **"YES"** vote **supports a constitutional amendment: the repeal of Proposition 209** (1996). Proposition 209 prohibited the state from *discriminating against or granting preferential treatment to persons on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting.*

A **"NO"** vote **opposes this constitutional amendment**. A **NO vote keeps Proposition 209** (1996), which *prohibited the state from discriminating against or granting preferential treatment to persons on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting.*

Summary:

In 1996 California voters added Section 31 to the California Constitution's Declaration of Rights: **"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."** https://ballotpedia.org/Article_1,California_Constitution

Proposition 209 established that California's governmental functions are to operate on a merit basis: Individuals are to be treated according to merit rather than group identity, a principle essential to American's success in industry, commerce, military, education and culture.

The 2020 Assembly Constitutional Amendment 5 (ACA5), will **eliminate Section 31 of the California Constitution. Withdrawing the section allows the State to develop legislation which can or will "discriminate against or grant preferential treatment to any individual on the basis of race, sex, color, ethnicity or national origin..."**

Support:

Assembly member [Shirley Weber](#) (D-79), principal Proposition 16 sponsor and chairwoman of the Legislative Black Caucus: "... After 25 years of quantitative and qualitative data, we see that race-neutral solutions cannot fix problems steeped in race... The ongoing pandemic, as well as recent tragedies of police violence, is forcing Californians to acknowledge the deep-seated inequality and far-reaching institutional failures that show that your race and gender still matter."

State Senator [Steven Bradford](#) (D-35): "I know about discrimination. I live it every day. We live it in this building. Quit lying to yourselves and saying race is not a factor... the bedrock of who we are in this country is based on race."¹⁵

Opposition:

Michelle Steele, *Chairwoman of the Orange County Board of Supervisors*: **"What we cannot and should not do, in our ultimate quest for equality, is to reinstate racial discrimination. Particularly when we've seen that a policy of non-discrimination is actually lifting up Black, Hispanic and Asian Americans.** Eliminating Prop. 209 will divide us further along racial lines. It will reverse decades of merit-based advancement for all and promote unequal treatment based on race in California. This division is exactly what we seek to eliminate in the United States."
<https://www.ocregister.com/2020/07/11/aca5-will-bring-discrimination-in-the-name-of-equality-michelle-steele/>

Senator [Ling Ling Chang](#) (R-29): " ...the answer to racial discrimination ...**is to strengthen our institutions by improving our education system so all students have access to a quality education and give opportunities to those who are economically disadvantaged. ACA5 legalizes racial discrimination and that's wrong.**"

Haibo Huang: "... Race is a forbidden classification for good reason... it demeans the dignity and worth of a person to be judged by ancestry instead of his or her own merit and essential qualities. **Racial preference is not transformed from patently unconstitutional into a compelling state interest simply by relabeling it racial diversity... Equal opportunity is referenced to individual merits, it never guarantees equal results. To the contrary, enforcing equal outcome regardless of qualification and effort bears the hallmark of communism.**"

The Wall Street Journal: "... **But judging individuals by the color of their skin is antithetical to equal justice under the law. Let's hope Californians hold on to this American principle of equality that goes back to the**

Declaration of Independence, the 14th Amendment, and the civil-rights movement." [https://ballotpedia.org/California_Proposition_16,_Repeal_Proposition_209_Affirmative_Action_Amendment_\(2020\)](https://ballotpedia.org/California_Proposition_16,_Repeal_Proposition_209_Affirmative_Action_Amendment_(2020))