

What is Proposition 16? Affirmative action back on the ballot, in a more diverse and Democratic California

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Body

Sept. 08-- Sep. 8--The fall campaign to repeal California's ban on affirmative action is a testament to the tectonic shift in the state's politics since the 1990s -- and a test of how far left its voters have swung from their politically purple past.

Twenty-four years ago, Republican Gov. Pete Wilson led the successful push for Proposition 209, which prohibited any consideration of race in public college admissions and other government functions, such as hiring and contracting.

This year, though, the full weight of California's political establishment -- including a Democratic governor, a long list of major elected officials, deep-pocketed donors, business leaders and even several professional sports franchises -- are lining up behind Proposition 16, which would repeal Proposition 209.

"This is not your dad's California of the 1990s," said Manuel Pastor, a USC professor of sociology and American studies and ethnicity, who has chronicled the state's political shifts. "This is an election that could signal -- or not -- turning the page away from the 1990s."

Proponents of Proposition 16 are driven by what they call Proposition 209's devastating legacy. Black and Latinx admission rates to UC system campuses plummeted after it went into effect and have never recovered. And one 2015 study from affirmative action supporters estimated businesses with women and non-White owners lost out on \$1 billion or more worth of government contracts as a result of the law.

Opposition to affirmative action hasn't disappeared -- new dynamics have emerged instead, with some Asian American activists taking a prominent role in the campaign against Proposition 16, driven by concerns it could drive down UC acceptance rates for Asian students, which are broadly comparable to those of White students. And legal challenges to affirmative action at the federal level could imperil its future regardless of how California votes this year.

Still, Proposition 16's supporters say its opponents are a relic of another era in California politics -- the controversial ballot measures of Wilson's tenure. Along with Proposition 209, California voters also approved 1994's Proposition 187, which sought to bar undocumented immigrants from public schools and other government services, and 1998's Proposition 227 banning bilingual education.

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Thomas Saenz, a co-chair of the Proposition 16 campaign and veteran of the fight against Proposition 209, described those measures as "wedge issues that exploited racial divisions and deepened (them), and exposed the mismatch between who is voting and what is the composition of the total state of California."

Those three laws are broadly seen today as a Pyrrhic victory for conservatives. The campaigns outraged and energized Latinx voters and launched a generation of organizers into politics, rendering the GOP toxic to much of the state's increasingly diverse electorate and, Pastor and others say, ultimately ushering in the deep-blue California we know today.

Repealing Proposition 209 would knock out the last of those three initiatives. Proposition 187 was declared unconstitutional and never enforced, and voters reinstated bilingual education in 2016.

Opponents of Proposition 16 are staking their campaign on a bet that California's electorate hasn't moved as much as its political leaders have toward supporting affirmative action in the years since Proposition 209 passed with 55 percent of the vote.

"I don't think this is any groundswell of public opinion," said Ward Connerly, who championed Proposition 209 as a University of California Regent and became one of the leading voices against affirmative action nationwide. "Unquestionably the political establishment has changed, but they don't decide what goes into the constitution."

The mismatch of political power between Proposition 16's yes and no campaigns extends to their war chests, though.

The pro side's Opportunity for All Coalition has brought in more than \$5 million, most of it from three sources: \$1.5 million from Oakland Democratic mega-donor Quinn Delaney, another \$1.5 from the Kaiser Foundation and \$1 million from Patricia Quillen, the wife of Netflix CEO Reed Hastings.

The No campaign's Californians for Equal Rights has raised about \$150,000, with its largest donation of \$50,000 from the Texas-based anti-affirmative action group Students for Fair Admissions, led by conservative legal strategist Ed Blum. The group is suing Harvard over its use of race in admissions in a closely watched case that could end up at the Supreme Court.

In California, Proposition 209 has led to a decline of Black and Latinx admission rates at all UC system schools -- most dramatically at its most selective campuses, Berkeley and UCLA. While between 50 and 60 percent of Black and Latinx applicants were admitted to UC Berkeley in 1994, those admission rates fell to 20 and 21 percent respectively in 1998, the year the law went into effect; last year 12 percent of Black applicants and 14 percent of Latinx applicants were admitted. UCLA saw similar declines. White and Asian students' admission rates have also fallen as campuses have gotten more selective over the years, but not nearly as sharply.

Proposition 16 would not create a new affirmative action system for colleges or local governments, but would instead make them possible, by deleting Proposition 209's ban on "preferential treatment" on the basis of race or gender.

Blum, Connerly and other affirmative action opponents argue a just society is one with the colorblindness Proposition 209 requires. Kali Fontanilla, a teacher and conservative activist with the No on 16 campaign, said the law "basically outlawed legal discrimination, and that is what we should be doing as a government."

But affirmative action opponents' rhetoric of equality has long outraged those on the other side of the issue, who say Proposition 209 has blocked their efforts to create a more just society.

"Thankfully we are in a place where the public as a whole recognizes that we have to do better on racial justice issues," Michele Siqueiros, the president of the Campaign for College Opportunity and a member of the Proposition 16 campaign. "The idea that you will fix racist practices -- and that you will address bias in our society -- by ignoring bias and racism and putting your head in the sand, I think, is ridiculous."

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