

## Proposition 16: A new fight over affirmative action

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### Body

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Oct 04, 2020( CalMatters: <https://calmatters.org> Delivered by Newstex) In summary California's Proposition 16 is a new skirmish in an old battle over 'affirmative action.' Fundamentally, Proposition 16[1] is the latest skirmish in a decades-long conflict over the meaning of two words — affirmative action.If passed — very doubtful, according to two recent polls — the measure would repeal 1996's Proposition 209[2], which banned discrimination or preferences 'on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.' Proposition 209 advocate Ward Connerly, a Black member of the University of California's Board of Regents, said at the time, 'Affirmative action was meant to be temporary (but) three decades later, affirmative action is permanent and firmly entrenched as a matter of public policy (and) the battleground for a political and economic war that has racial self-interest as its centerpiece.' Connerly was referring to the 1960s, when President John Kennedy ordered federal government contractors [3]to 'take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, or national origin.' The term, however, quickly morphed from treatment 'without regard' for race, gender or ethnicity into policies granting specific preferences to what were then called 'minorities.'

Get a veteran journalist's take on what's going on in California with a weekly round-up of Dan's column every Friday. Keep tabs on the latest California policy and politics news At its outer edges, affirmative action evolved into rigid quotas, and California became the epicenter of the issue when a white Vietnam veteran named Allan Bakke applied to the University of California, Davis, medical school. The school rejected Bakke in 1973, despite high marks on his application. At the time, the school — in the name of affirmative action — set aside some medical school slots for minorities and Bakke sued, alleging racial discrimination. He won in the state Supreme Court, the university appealed to the U.S. Supreme Court, and its 5-4 decision[4] is still being debated and litigated. The court declared that quotas are unconstitutional but that race can be considered in college admissions as long as it isn't the exclusive criterion. Justice Harry Blackmun wrote for the majority, saying, 'In order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently. We cannot — we dare not — let the Equal Protection Clause perpetuate racial supremacy.' Ever since, the debate has raged over whether affirmative action is treating people 'differently' to 'get beyond racism,' as Blackmun said, or is racial discrimination, as Bakke and later Connerly contended. Proposition 209 passed in 1996 with support of 54.5% of that year's voters, nearly three-quarters of whom were white and voted for it 63% to 37%. Today, California's white population is under 40%, white voters make up just 55% of the state's voters, according to the Public Policy Institute of California, and the state's politics have shifted markedly leftward. Proposition 209's critics, alleging that it oppresses women and people of color, sensed time was ripe for change. The overwhelmingly Democratic Legislature voted to place Proposition 16 on the ballot in legislation carried by a Black woman[5], Assemblywoman Shirley Weber, a San Diego Democrat. 'This is probably an opportune time

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given people's interest in politics and given the kind of turnout that is anticipated — and given the fact that this is a different generation, that it may be possible for us to begin to work to reverse Prop. 209,' Weber said. Perhaps the timing is not so opportune. Attorney General Xavier Becerra gave the measure a very positive official title: 'Allows diversity as a factor in public employment, education and contracting decisions.' However, recent polling indicates that it isn't catching on with likely voters. The Public Policy Institute of California[6] found just 31% support and UC Berkeley's IGS poll[7] pegged it at 33%. Chances are high that after Nov. 3, the debate over the meaning of affirmative action will still be raging. Support in-depth reporting that matters As a nonprofit newsroom, we rely on the generosity of Californians like you to cover the issues that matter. If you value our reporting, support our journalism with a donation. [ 1]: [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)) [ 2]: [https://ballotpedia.org/California\\_Proposition\\_209,\\_Affirmative\\_Action\\_Initiative\\_\(1996\)](https://ballotpedia.org/California_Proposition_209,_Affirmative_Action_Initiative_(1996)) [ 3]: [https://en.wikipedia.org/wiki/Executive\\_Order\\_10925](https://en.wikipedia.org/wiki/Executive_Order_10925) [ 4]: <https://supreme.justia.com/cases/federal/us/438/265/> [ 5]: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200ACA5](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACA5) [ 6]: <https://www.ppic.org/wp-content/uploads/ppic-statewide-survey-californians-and-their-government-september-2020.pdf> [ 7]: <https://escholarship.org/uc/item/4cd2r446>

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