

Background on Proposition 16

Proposition 16 Summary

Proposition 16 would repeal Proposition 209, which was passed by California voters in 1996. Proposition 209 added Section 1 to Article 1 of the California State Constitution which states that, "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." Proposition 16 would repeal Proposition 209 and would once again allow California's colleges and universities to take into account the race, ethnicity, gender or national origin of prospective students in the admission process. State agencies would also be allowed to use such criteria in their hiring processes or when awarding contracts, goods, and services. Schools and state agencies would not be mandated to adopt affirmative action programs, but would be allowed to create employment or admission programs that explicitly take the aforementioned criteria into account.

Proposition 209

Proposition 209 eliminated state and local government affirmative action programs in the areas of public employment, public education, and public contracting to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. The measure does not prohibit reasonably necessary, bona fide qualifications based on sex and actions necessary for receipt of federal funds.

The ban on affirmative action policies established by Proposition 209 took effect in 1998. Since Proposition 209's passage, California has become one of only eight states that do not allow race or gender to be among the many factors considered in hiring, allotting state contracts or accepting students into the state's public colleges and universities.¹

Impact of Proposition 209 on Admissions, Enrollment & Inclusion in Higher Education

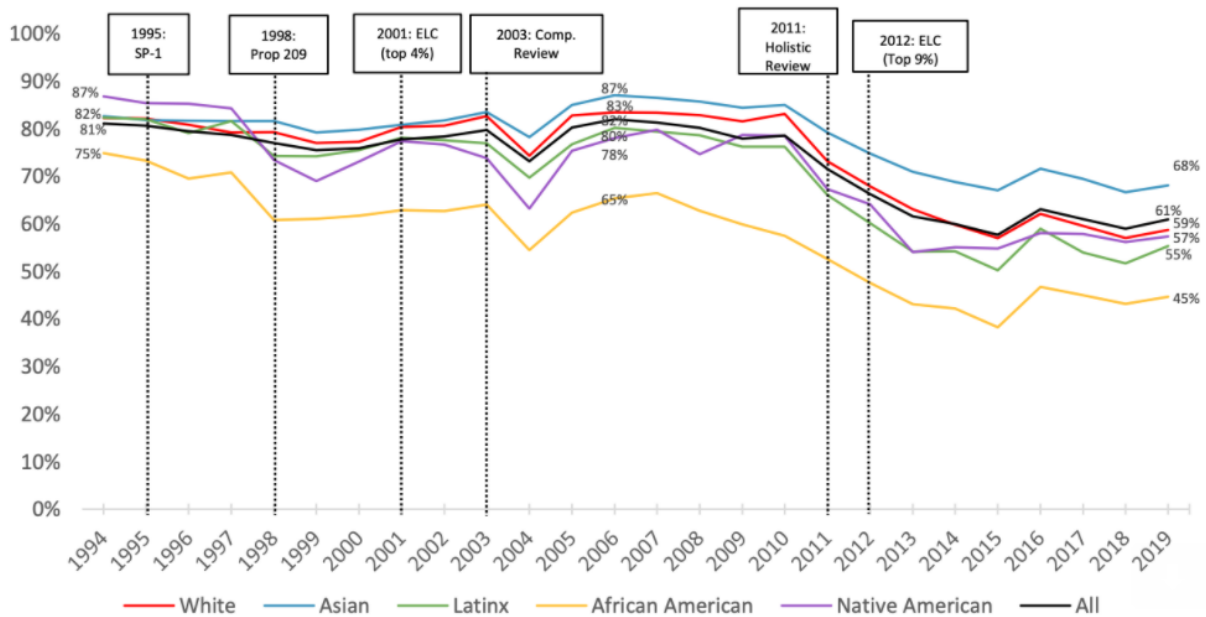
Numerous studies have demonstrated that Proposition 209 had dramatic and immediate effects on enrollment rates of underrepresented groups (URG) at California's universities, with long-term consequences, like declining graduation rates and lower earnings after graduation specifically for African-American and Latinx students.

While admission rates for underrepresented groups have slightly improved in the last two years, the disparities between overall admissions rates and those for African-American and Latinx students have grown significantly since adoption of Proposition 209. In 1994, the admissions rate for African-American applicants was only 6 percentage points below the overall admissions rate, while Latinx applicants were admitted at a higher than average rate (See Figure 1). **After the implementation of Proposition 209, the gap between admission rates of African-American students compared their white counterparts grew from 12 percent in 1994 to 22**

¹ Brookings Institution (2019). Retrieved from: <https://www.brookings.edu/blog/brown-center-chalkboard/2019/04/12/why-might-states-ban-affirmative-action/>

percent in 2019. The gap between admission rates for Latinx students compared to their white counterparts grew from 6 percent to 12 percent, despite the increased number of Latinx students graduating from California high schools and transferring from community colleges.

Figure 1: University of California Admission Rates by Ethnicity (1994-2019)



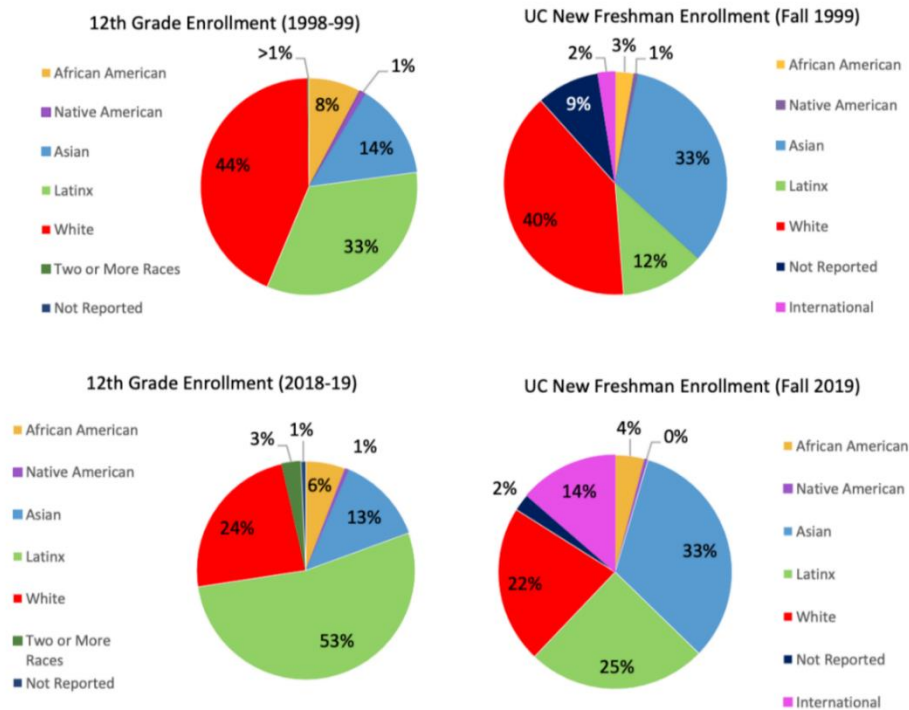
Source: The Education Trust-West, University of California. 2020. Data retrieved from <https://www.universityofcalifornia.edu/infocenter/admissions-residency-and-ethnicity>

According to a University of California Office of the President (UCOP) memo, “the University’s enrollment of students from URG and recruitment of faculty of color falls short of reflecting the rich diversity of California’s population.” Prior to Proposition 209, the proportion of freshmen from URG averaged 19 to 20 percent, then dropped to 15 percent in 1998 then slowly increased over the next 20 years, reaching a peak at 37 percent in 2016—an increase that can be attributed to the increase in enrollment across all UC undergraduate campuses. Meanwhile, the percentage of URG students graduating from high school has nearly doubled to over 56 percent in 2016.²

The impact of Proposition 209 is also clear when comparing the demographics of California K-12 enrollment with that of UC freshmen. The high school senior class of 1998-99 was 33 percent Latinx and 8 percent African-American; in that same year, Latinx and African-American students comprised 12 percent and 3 percent of the UC first-year students. **Among the high school class of 2019, 53 percent of students were Latinx, and 6 percent were African-American; however the UC freshman class of the same year was only 25 percent Latinx and 4 percent African-American** (see Figure 2).

² UC Board of Regents (2020). Retrieved from: <https://regents.universityofcalifornia.edu/regmeet/june20/b1.pdf>

Figure 2: 12th Grade Enrollment and UC New Freshman Enrollment (1999 and 2019)



Source: The Education Trust-West, California Department of Education. (2020). Retrieved from <https://data1.cde.ca.gov/dataquest/>; University of California. (2020). Data retrieved from <https://www.universityofcalifornia.edu/infocenter/fall-enrollment-glance>

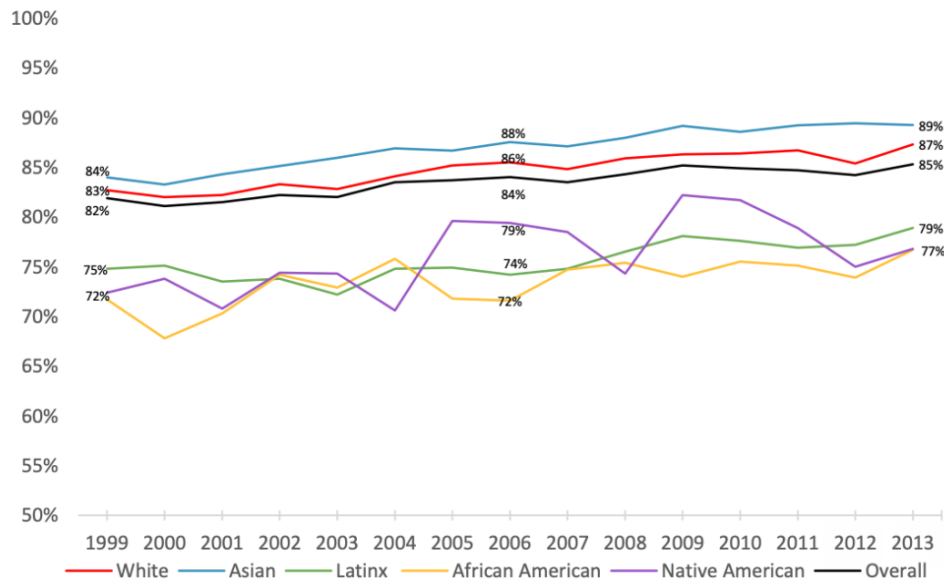
While there was a slight increase in the overall enrollment rate at California’s four-year colleges after Proposition 209 was implemented, enrollment rates fell for African Americans and Hispanics. The **average annual enrollment rates for African-Americans declined by 15 percent post-Proposition 209 and by 10.3 percent for Latinxs**. These declines in enrollment rates occurred both within the UC and the campuses of the California State University system.³

The UCOP study also found that the end of affirmative action led to a **1.4 percentage point decline in all URG applicants’ likelihood of earning a Bachelor’s degree within six years**, likely as a result of their decreased likelihood of enrolling at UC campuses (and the Berkeley and UCLA campuses in particular) after graduating high school.⁴ While graduation rates have slowly improved over time, a gap remains between the overall UC graduation rate and the rates for Latinx and African-American students. Figure 3 shows 6 and 8 percentage point gaps between the overall graduation rate and that of Latinx and African-American students, respectively.

³ Duke University & London School of Economics Centre for Economic Performance, “The effects of Proposition 209 on college enrollment and graduation rates in California” (2011). Retrieved from: <http://public.econ.duke.edu/~psarcidi/prop209.pdf>

⁴ UC Office of the President, “The impact of Proposition 209 on underrepresented UC applicants, and the effect of subsequent UC admission policies on URG enrollment.” Retrieved from: www.ucop.edu/institutional-research-academic-planning/_files/uc-affirmative-action.pdf.

Figure 3: University of California 6-Year Graduation Rates by Ethnicity (1999-2019)



Source: The Education Trust-West, University of California. 2020. Data retrieved from <https://www.universityofcalifornia.edu/infocenter/ug-outcomes>
 *In 1999 and 2013 African-American and Native American students had the same graduation rates.

Staff Recommendation

Commission staff recommends that the Commission adopt the following resolution in support of Proposition 16:

Resolved, that the California Student Aid Commission endorses Proposition 16 on the November 2020 General Election ballot, the legislatively referred initiative constitutional amendment to repeal Proposition 209 and allow the use of affirmative action in higher education, given that it could support the ability for historically underrepresented California students to access public colleges and universities.