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Education

ACA 7 (Jackson)
Oppose

Vote requirement: 27 (Constitutional amendment)

Version Date: 08/13/2026

Summary

ACA 7 is a proposed constitutional amendment for the November 7, 2028 election, known as the "*Closing the Student Opportunity and Achievement Gap Act*." that would narrow the scope of California Proposition 209, California's constitutional prohibition on government discrimination or preferential treatment based on race, sex, color, ethnicity, or national origin. Under current law, these protections apply broadly to public employment, public education, and public contracting. ACA 7 would limit those protections only to public employment, higher education admissions and enrollment, and public contracting, potentially allowing the State, local governments and all public education entities to consider race or ethnicity in other areas of policy and programming. It adds findings and declarations that there is a persistent racial equity gap in educational opportunity and outcomes and that the State has compelling reasons in closing those gaps through race-conscious evidence-based measures.

Vote History

Assembly Floor: 54-14 (2/19/2026)

(NO: All Republicans, except: ABS: Alanis, Dixon, Ellis, Flora, Gallagher, Lackey)

Senate Education: 5-2 (6/03/2026)

(NO: Choi, Ochoa Bogh)

Senate Elections & Constitutional Amendments: 4-1 (6/9 26/)

(NO: Choi;)

Senate Appropriations: 4-2 (08/13/2026)

(NO: Dahle, Seyarto)

Support & Opposition Received

Support: A2mend; Advanced Consulting, LLC; Berkeley Reparations Coalition; Black Educator Advocates Network; Black Parallel School Board; Black Students of California United; BLU Educational Foundation; Board of Supervisors for the City and County of San Francisco; Bulletproof Group; Californians for Justice; Californians Together; Canal Alliance; Center for Black Educator Development; Central Valley Movement Building Organizing Institute; Children Now; Chinese for Affirmative Action; City and County of San Francisco; Community Schools Learning Exchange; Congregations Organized for

Prophetic Engagement; EdTrust-West; Grand Performances; Innercity Struggle; Los Angeles Urban Foundation; National Equity Project; Northern California College Promise Coalition; Parent Engagement Academy; Partnership for Los Angeles Schools; Prismatic Research & Strategy; Public Advocates; Southeast Asia Resource Action Center; Southern California Pacific Islander Community Response Team; Students Rising Above; Teach Plus California; The Village Method, United Parents and Students; United Way of Greater Los Angeles; Watts of Power Foundation; Young Invincibles.

Opposition: American Civil Rights Project; California Family Council; Californians for Equal Rights Foundation; Elk Grove Chinese Action; Equal Rights for All PAC; Pacific Legal Foundation; San Diego Asian Americans for Equality.

Fiscal Effect

SIGNIFICANT STATE COSTS

Election Costs. One-time General Fund costs to the Secretary of State in the high hundreds of thousands of dollars for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot. Over the last three election cycles, the printing and mailing costs per page averaged around \$125,000.

Unknown Effects on TK - 12 State Costs. This bill does not directly affect state costs for TK - 12 education, but it would allow the state or local agencies to enact race-based policies for TK - 12 schools. Such policies could affect the state's spending within the Proposition 98 funding rules, potentially changing the allocation of funds among local school districts, or could adjust overall Proposition 98 funding in the state budget in some cases, if the subsequent policies change overall school enrollment under certain Proposition 98 formulas.

Arguments in Support

According to the Author "ACA 7 seeks to provide clarity to existing legislation concerning Proposition 209, also known as Article I, Section 31 of the California Constitution. For too long, the provisions of this law have been subject to broad interpretation, leaving Californians without a clear understanding of its intended application. This measure introduces clarifying language and makes a modest adjustment to focus specifically on 'higher education enrollment.' These changes will help ensure a more accurate interpretation of the state constitution, allowing its provisions to be implemented as originally intended

According to the author, and UC Berkley's Affirmative Action, Mismatch, and Economic

Mobility After California's Proposition 209, "Ending affirmative action caused UC's 10,000 annual underrepresented minority (URM) freshman applicants to cascade into lower-quality public and private universities. URM applicants' undergraduate and graduate degree attainment declined overall and in STEM fields, especially among lower-testing applicants. As a result, the average URM UC applicant's wages declined by five percent annually between ages 24 and 34, almost wholly driven by declines among Hispanic applicants. By the mid-2010s, Prop 209 had caused a cumulative decline in the number of early-career URM Californians earning over \$100,000 by at least three percent."

EdTrust - West states, "This measure would amend the California constitution to permit use of race in public education policy, excluding higher education admissions and enrollment. As explained in our recent publication "Black Minds Matter," (Black Minds Matter: Building Bright Black Futures) research and data on public education show significant racial disparities in opportunity and achievement. In many cases, these disparities are rooted in race. ACA 7 recognizes this and would permit targeted, research-based interventions that improve educational outcomes. Without ACA 7, we'll continue to struggle to close opportunity and achievement gaps as no effective proxy for race has been found to target educational interventions and resources."

Coalition of organizations, "The inability to target the needs of students of color due to Prop 209's restrictions on race-conscious policymaking has prevented California from closing racial equity gaps in educational outcomes. These gaps carry real consequences for graduation rates, college access, economic mobility, and long-term outcomes. ACA 7 directly responds to this longstanding barrier by allowing policy-makers to craft targeted, evidence-based interventions to address documented inequities that race-neutral policies alone have failed to address. Without ACA 7, the state will continue to rely on ineffective proxies for race, limiting its ability to design effective educational interventions and allocate resources in ways that meaningfully advance equity."

Arguments in Opposition

The Pacific Legal Foundation, "While ACA 7 preserves the prohibition on discrimination in higher education enrollment, it will permit the government to discriminate in all aspects of K-12 education and all other aspects pertaining to colleges and universities. This uneven and inconsistent preservation of equality and opportunity fails to fully live up to the guarantee of the equal protection of the laws under the Fourteenth Amendment to the United States Constitution. Adherence to the Fourteenth Amendment mandates that eliminating racial discrimination means eliminating all of it.' It is thus insufficient under our constitution that government cannot discriminate in higher education enrollment but can discriminate everywhere else. Opposing ACA 7 will uphold the promise of equality that Proposition 209 protects. Since the passage of Proposition 209, Californians have consistently given strong support to the constitutional prohibition on racial preferences and discrimination. In 2020, Californians defeated Proposition 16

in a landslide, rejecting an amendment to repeal Proposition 209. And in 2024, an attempt to permit broad exceptions to Proposition 209 was unsuccessful when the Legislature failed to pass ACA 7."

The California Family Council states "In 2023, the United States Supreme Court in *Students for Fair Admissions v. Harvard* held that race-based admissions programs in higher education violated the Equal Protection Clause of the Fourteenth Amendment. The Court emphasized that government classifications based on race are inherently suspect and subject to the strictest scrutiny. Public policies that distribute benefits or burdens based on race must meet extraordinarily high constitutional standards, and most fail to do so... ACA 7 invites renewed constitutional conflict. By narrowing the scope of Proposition 209's protections, the amendment creates ambiguity and potential litigation over which programs may now incorporate race or sex-based considerations. Rather than providing clarity, it weakens the constitutional guardrails that voters deliberately put in place"

Some would argue that California voters have spoken on this, for nearly 30 years, Californians have repeatedly affirmed a simple principle: government should not discriminate against or grant preferential treatment to anyone based on race or ethnicity. Voters enacted Proposition 209 in 1996 and decisively rejected repeal again in 2020. ACA 7 represents another attempt to weaken those protections incrementally after Californians already said no. Equal treatment under the law remains both a constitutional principle and the expressed will of California voters.

While framed as a limited change, the amendment would expand government discretion and remove constitutional guardrails across broad areas of public policy, opening the door to identity-based programs in areas like K–12 and higher education. By removing the constitutional prohibition, it creates legal and policy space in which race-based numerical targets, set asides or preferences could be considered.

Digest

Amends the California State Constitution, upon approval of the voters of California, to narrow the scope of the State's prohibition in granting preferential treatment on the basis of race, sex, color, ethnicity, or national origin to the areas of public employment, higher education admission and higher education enrollment, and public contracting.

1) Removes public education from the list of State operations which are prohibited from discriminating against or granting preferential treatment to, any individual or group, on the basis of race, sex, color, ethnicity, or national origin.

2) Adds "public higher education admission and enrollment" to the list of State operations which are prohibited from discriminating against or granting preferential treatment to, any individual or group, on the basis of race, sex, color, ethnicity, or national origin.

3) States the prohibition on discrimination and the granting of preferential treatment shall only apply to actions of the State after the section's effective date and is limited to the areas of public employment, higher education admissions and enrollment, and public contracting.

4) Makes various technical and clarifying changes to the section of the California Constitution.

5) Sets November 7, 2028 as the election date.

6) Add Legislature findings and declarations

The Legislature finds and declares both of the following:

(1) Documented, persistent, racial equity gaps in educational opportunity and outcomes in California's transitional kindergarten to 12th grade, inclusive, public schools and community colleges undermine equal educational access and the State's ability to provide all students with a meaningful opportunity to succeed because current race-neutral alternatives have failed to close the racial equity gap in educational opportunity and success in California's public schools.

(2) Therefore, to the maximum extent permitted by federal law and the United States Constitution, the State has a compelling governmental interest in closing those racial equity gaps in California schools through race-conscious, evidence-based measures that expand educational opportunity and eliminate barriers to access and success, provided that nothing herein shall be construed to authorize the State to discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in violation of this section of the State Constitution or in violation of the United States Constitution

Background

The Civil Rights Act of 1964 was part of the Federal Government's approach to guaranteeing equal treatment for every American. In addition to the passing of the landmark act, President Lyndon Johnson issued Executive Order 11246 requiring the federal government to take affirmative action to address previously discriminatory practices in the hiring and employing of marginalized individuals underrepresented in public employment. Over the next few decades, Federal agencies and State governments introduced affirmative action policies to provide greater access to educational and employment opportunities for historically marginalized groups affected by systemic discrimination.

Regents of University of California v. Bakke (1978) 438 U.S. 265, the United States Supreme Court examined the constitutionality of affirmative action policies in higher education, holding that strict racial quota systems in university admissions were unconstitutional while allowing race to be considered in limited circumstances. The case became a defining moment in the national debate over affirmative action and raised

broader concerns about the relationship between race-conscious policies and equal protection under the law. In the wake of growing concern around the correlation between affirmative action and discrimination, the University of California (UC) Board of Regents passed the country's first affirmative action ban in 1995, ending the practice of using race, religion, sex, color, ethnicity, or national origin as a criterion in admissions, contracting, and hiring practices at the UC.

In November 1996, Proposition 209 the California Civil Rights Initiative passed with a majority voting to create California State Constitution Article I Section 31(a) which states: "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."

According to the Legislative Analyst's Office, Proposition 209 would "eliminate 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." In higher education, the proposition would impact a variety of assistance programs for students, faculty and staff that provided targeted assistance to individuals based on individuals. These targeted programs included specialized tutoring, financial aid, outreach, and counseling.

Since 1996, there have been four legislative attempts to either repeal or reduce the scope of Proposition 209 on public contracting, public education, and public employment. Of the four attempts only one has made it onto the ballot. In 2020, ACA 5 (Weber), Chapter 23, Statutes of 2020 or Proposition 16 sought to repeal the provisions of Proposition 209. Proposition 16 failed with the majority of Californians voting to uphold the existing ban on discrimination and preferential treatment in State operations of public employment, public contracting, and public education.

In 2023, *Students for Fair Admissions v. Harvard*, the United States Supreme Court ruled that race-conscious admissions policies used by Harvard University and the University of North Carolina violated the Equal Protection Clause of the Fourteenth Amendment. The Court held that admissions programs relying on racial classifications lacked sufficiently measurable objectives, used race in a negative manner for some applicants, and conflicted with the constitutional principle that individuals should be treated based on their own merits rather than racial identity. The decision marked a major shift away from the affirmative action framework established after *Bakke* and reinforced the growing legal and constitutional preference for race-neutral approaches in education and public policy.

Related Legislation

ACA 5 (Weber, Res. Chapter 23, Statutes of 2020) (Passed Senate Floor 30-10-0)Current Republican Senator Votes; No: Choi, Dahle, Grove, Jones; Proposed a constitutional amendment to repeal Proposition 209, the constitutional prohibition on

discriminating against, or granting preferential treatment to, any group or individual on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

ACA 5 placed Proposition 16 on the November 3, 2020 ballot where it was defeated overwhelmingly (Yes: 42.77% No: 57.23%)