



**THE EQUAL PROTECTION PROJECT**  
**A Project of the Legal Insurrection Foundation**  
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**Equal Protection Project Opposes ACA 7 – Scale Back  
of Nondiscrimination Protections In California State Constitution**

The Equal Protection Project ([EPP](http://www.EqualProtect.org)) of the non-profit Legal Insurrection Foundation ([LIF](http://www.LegalInsurrection.org)) is devoted to the fair treatment of all persons without regard to race or ethnicity. Our guiding principle is that there is no ‘good’ form of racism. The remedy for racism never is more racism.

Since its creation in 2023, EPP has filed civil rights complaints against more than 275 governmental and private entities challenging over 750 programs that discriminated on the basis of race, color, national origin, and/or sex.

EPP opposes California Assembly Constitutional Amendment 7 ([ACA 7](#)), a California legislative proposal that would amend, subject to voter approval, the state constitution to allow for race-based and sex-based preferences in most public education programs.

Passed in the state assembly with the bare minimum two-thirds threshold required to advance a constitutional amendment in California, ACA 7 is now being considered by the state Senate. If approved by the Senate, it would be placed on the ballot for potential approval by the voters.

Proposition 209, approved by California voters in 1996, added clear nondiscrimination language to the California Constitution:

**“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.”**

Prop 209 applies to public employment, public education, and public contracting, and has become a bedrock protection against discrimination in California, setting an important example for other states. In 2020, California voters reaffirmed their commitment to non-discrimination when they rejected Proposition 16, which would have repealed Prop 209.

Rather than an outright repeal, ACA 7 seeks to so thoroughly narrow Prop 209's constitutional protections as to constitute a *de facto* repeal as relates to education. Specifically, under ACA 7:

- “Public education” would be removed from Prop 209's constitutional prohibition on discrimination and preferential treatment based on race or sex.
- The ban on race and sex-based preferences would apply only to public employment, public contracting, and “higher education admission and enrollment.”
- K–12 education policies, grant programs, state-funded initiatives, and other aspects of public education would no longer be constitutionally barred from using race- or sex-based preferences.

In other words, while ACA 7 preserves some of the prohibitions on discrimination in higher education, it substantially narrows those protections in higher education and would permit the government to discriminate in all aspects of K-12 education and most aspects pertaining to colleges and universities.

This proposed amendment comes in the wake of the U.S. Supreme Court’s 2023 decision in [\*Students for Fair Admissions v. Harvard\*](#), (SFFA) where the Court ruled that race-based admissions programs violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. While the language of ACA 7 carves out higher education admissions from permissible discrimination, it authorizes discrimination in every other facet of education. This carve-out is an overly narrow reading of SFFA, which while it took place in the context of university admissions reiterated a broad protection: “Eliminating racial discrimination means eliminating all of it.”

ACA 7 violates the promise of equality that the Fourteenth Amendment and Prop 209 protect. Accordingly, EPP opposes ACA 7.

Respectfully submitted,

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President and Founder

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**Submitted via Public Comment Portal**