

CONCURRENCE IN SENATE AMENDMENTS

AB 7 (Bryan)

As Amended July 3, 2025

Majority vote

SUMMARY

States that the California State University (CSU), the University of California (UC), independent institutions of higher education, and private postsecondary educational institutions may consider providing a preference in admissions to an applicant who is a descendant of slavery, as defined, to the extent it does not conflict with federal law.

Senate Amendments

- 1) Define "descendant of slavery" to mean an individual who can establish direct lineage to a person who, before 1900, was subjected to American chattel slavery and meets at least one of the following criteria:
 - a) Was emancipated through legal or extralegal means, including self-purchase, manumission, legislative action, military service, or judicial ruling;
 - b) Obtained freedom through gradual abolition statutes or constitutional amendments;
 - c) Was classified as a fugitive from bondage under federal or state law;
 - d) Was deemed contraband by military authorities; and/or,
 - e) Rendered military or civic service while subject to legal restrictions based on ancestry historically associated with slavery.

COMMENTS

Education attainment levels of Black Students in the State. The Campaign for College Opportunity released a report in February 2019, entitled, *State of Higher Education for Black Californians*. The report noted several facts, notably:

- 1) California high schools graduate Black students at lower rates than all other racial/ethnic groups and have failed to address the significantly lower percentages of Black students who are offered and complete the college preparatory curriculum - a 17% point gap in A-G completion between Black and White students exists.
- 2) Of the 25,000 Black high school graduates in 2017, only 9,000 completed the coursework necessary to be eligible for California's public four-year universities.
- 3) CCC transfer only 3% of Black students within two years, and only 35% within six years.
- 4) Sixty-three percent of Black community college students do not earn a degree, certificate, or transfer within six years.
- 5) Fifty-seven percent of Black freshmen at CSU do not complete a degree within six years and only 9% do so in four years.

- 6) Ninety-three percent of Black for-profit college students do not complete a degree within six years.
- 7) Almost half of all Black students who attended college left without a degree.

Further, the California Task Force to Study and Develop Reparation Proposals for African Americans, released its final report, commonly referenced as, *The California Reparations Report*, on June 29, 2023. This report, in part, found that in recent years, the academic achievement gap between all student groups has steadily decreased, except for the gap between Black and White students, which has widened. The report contends said data point confirms the ongoing existence of "deeply-rooted racial disparities in the nation's education system." Additionally, the report found that there was a 60% decline in Black student enrollment at America's most selective colleges and universities from the span of 2000-2020.

Proposition 209 and 16. On November 5, 1996, California voters passed (54.55%) Proposition 209, which, in part, eliminated the consideration of race, in public education admissions, regardless of long-standing practices institutions of higher education may have had in place.

Since 1996, there have been various legislative attempts to either repeal or reduce the scope of Proposition 209 on public contracting, public education, and public employment. Of the attempts, one successfully made it onto the ballot. In 2020, ACA 5 (Shirley Weber), Chapter 23, Statutes of 2020, (which became Proposition 16), sought to repeal the provisions of Proposition 209. Proposition 16 was deemed an opportunity for California to reintroduce affirmative action by allowing policymakers to consider race and gender—without quotas—when making decisions about contracts, hiring, and education to eliminate systemic discrimination and remedy past harm.

Proposition 16 failed with more than the majority (57.2%) of Californians voting to uphold the existing ban on discrimination and preferential treatment in State operations of public employment, public contracting, and public education.

As drafted, this measure authorizes the CSU, the UC, and independent institutions of higher education, and private postsecondary institutions, to consider providing a preference in admissions to an applicant who is a descendant of slavery, to the extent that it does not conflict with federal law.

Though the language of this measure is permissive, it remains unclear how it would be fully implemented. Policy questions exist - these questions include, but are not limited to, the following:

- 1) How many generations do applicants have to go back in order to be eligible?
- 2) Additionally, what documentation will potentially eligible applicants need to present when seeking to benefit from the preference in admissions?
- 3) How will campus enrollment offices know how to ascertain if provided documents are in fact authentic?

In 2023, the U.S. Supreme Court determined the admissions programs at Harvard College and the University of North Carolina violated the equal protections clause of the 14th Amendment of

the U.S. Constitution when colleges considered race as a criteria in admission decisions.¹ The decision effectively ended affirmative action in admissions across the United States; except for in California, where Proposition 209 already prohibited the public university systems from using race as a criteria for admissions. However, it is presently unclear if this measure violates the provisions of state and federal law.

According to the Pacific Legal Foundation, "AB 7's use of race and ancestry to provide an admission preference would be subject to strict scrutiny. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution states that "[n]o state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, Section 1. Likewise, the California Constitution provides, "A person may not be . . . denied equal protection of the laws." Cal. Const. art. I, Section 7(a). The Supreme Court was clear in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 208 (2023), that the Constitution rarely tolerates race-based state action. And when it does, it is only within the confines of narrow restrictions. *Id.* at 214. AB 7 is no exception."

According to the Author

According to the author, "for decades, universities gave preferential admission treatment to legacy donors and their family members, while ignoring admission outcomes for applicants directly impacted by legacies of harm and exclusion. These intentional decisions have resulted in stark and measurable achievement differences that have documented ties back to slavery in the United States."

The author further states that, "AB 7 provides a legal mechanism for California's colleges and universities to address educational inequities tied directly to slavery and its lasting effects. By allowing institutions to consider an applicant's lineage as a factor in admissions decisions, the bill aims to increase institutional access for students who research has shown still experience the greatest educational attainment and achievement disadvantages."

Arguments in Support

According to the UC Student Association (UCSA), "AB 7 is a critical step toward equity and restorative justice, one that acknowledges and seeks to correct historical and systemic barriers that have impacted descendants of slavery, a lineage that has disproportionately hindered college access for African-American communities and Black students across generations due to the legacy of slavery, Jim Crow segregation laws and institutionalized racial discrimination."

Additionally, UCSA states that, "for many students, pursuit of a higher education is simply out of reach, oftentimes due to factors out of their control: Lack of access to college advisors, little to no support with A-G completion, dual enrollment or FAFSA, and affordability. Obstacles that threaten students' dreams of their college and career goals are disturbingly more pronounced for Black students, who are enrolled in California's public colleges and universities at disproportionately lower rates due to long-standing inequities in our K-12 and higher education systems."

¹ <https://www.scotusblog.com/case-files/cases/students-for-fair-admissions-inc-v-president-fellows-of-harvard-college/>

Arguments in Opposition

According to the Californians for Equal Rights Foundation (CFER), "California State Constitution Article I Section 31(a) was established by the passage of Proposition 209, or the California Civil Rights Initiative in 1996. It unequivocally 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." This principle was overwhelmingly reaffirmed on the November 2020 ballot when 57.2% of California voters rejected Proposition 16, which would have repealed Prop 209."

The CFER contends that, "AB 7's implementation would certainly lead to *de facto* racial preferences without facilitating any meaningful changes to ameliorate structural problems at the K-12 level including declines in academic performance and the persistent achievement gaps among different demographic groups."

FISCAL COMMENTS

According to the Senate Committee on Appropriations:

- 1) The California State University (CSU) estimates General Fund (GF) costs of about \$3.0 million for campuses to review and determine the appropriate documentation necessary to verify descendants of slavery and update admissions applications. This estimate assumes that all 23 campuses would elect to provide preferential admissions to descendants, and that each campus would require one new position at a cost of \$130,104 each year to perform these duties.
- 2) The University of California (UC) estimates General Fund costs in the tens of thousands of dollars each year to verify descendants of slavery and update admissions applications. The UC also cites multiple pending lawsuits for its admissions practices and that the bill would likely be challenged in the courts. To the extent that the bill results in litigation involving UC as a party, it could add unknown but potentially significant GF costs in the high hundreds of thousands of dollars.

VOTES:

ASM HIGHER EDUCATION: 6-3-1

YES: Fong, Boerner, Jackson, Muratsuchi, Celeste Rodriguez, Sharp-Collins

NO: DeMaio, Jeff Gonzalez, Tangipa

ABS, ABST OR NV: Patel

ASM JUDICIARY: 8-2-2

YES: Kalra, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Macedo, Sanchez

ABS, ABST OR NV: Dixon, Bauer-Kahan

ASM APPROPRIATIONS: 11-3-1

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Dixon, Ta, Tangipa

ABS, ABST OR NV: Sanchez

ASSEMBLY FLOOR: 54-17-8

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Pellerin, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NO: Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Alanis, Bains, Bauer-Kahan, Irwin, Lackey, Patel, Petrie-Norris, Schiavo

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