

Proposition 209 Primer

Proposition 209 prohibits the University from “discriminat[ing] against” or “grant[ing] preferential treatment to” any individual or group on the basis of race, sex, color, ethnicity, or national origin. Although Proposition 209’s precise contours and scope remain uncertain, a few important takeaways include:

1. **We don’t have to be “blind.”** Proposition 209 does not require us to be “blind” to race and gender. To the contrary, federal law specifically requires us to collect demographic statistics and maintain race conscious and gender conscious affirmative action plans. A specific subsection of Proposition 209 immunizes actions necessary to “maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.”
2. **“Preferential treatment” includes preferential treatment to majority members.** Recall the discussion of “ingroup favoritism” in our implicit bias training videos and our hiring guide, [Searching for Excellence](#). Subtly preferring Whites over racial minorities, or men over women, is inconsistent with Proposition 209.
3. **Proposition 209 also bars discrimination.** Remember that the first part of Proposition 209 prohibits discrimination against (not just preferential treatment for) certain races or genders. Subtly discriminating against women or racial minorities because of implicit bias is also inconsistent with Proposition 209.
4. **We can loudly share our values.** UCLA and the [University of California](#) value equity, diversity, and inclusion. Nothing prevents us from sharing these commitments loudly and transparently and living by them.
5. **We can explicitly outreach on the basis of race and gender.** In order to maximize an inclusive pool, we have to engage in outreach. Outreach that is targeted explicitly by race and gender (for example, posting a job opening with the Association of Black Sociologists, the National Latina/o Psychology Association, or the Society of Women Engineers) is fine as long as it provides information that is available to all. This is pool formation, not actual selection.
6. **Credit contributions not categories.** Notwithstanding Proposition 209, we are completely free to consider an individual’s contributions to equity, diversity, and inclusion when hiring faculty. In fact, the Academic Personnel Manual, [APM 210-1-d](#) *requires* that “due recognition” be given to “[c]ontributions in all areas of faculty achievement that promote equal opportunity and diversity.”

For a more comprehensive review of Proposition 209, please see the following UC documents:

- (1) [Guidelines for Enhancing Diversity at UC in the Context of Proposition 209](#) and
- (2) [Guidelines for Addressing Race and Gender Equity in Academic Programs in Compliance with Proposition 209](#).