Proposition 209 is a statewide constitutional amendment initiative in California, which, if passed in November 1996, will eliminate all statewide affirmative action programs. It is argued that, contrary to its title, this amendment is an extreme and unnecessary measure that will actually undermine further advances in civil rights. There are differing opinions about affirmative action in the Asian Pacific community, but much of the discussion has focused on college admissions with many Asian Pacific Americans believing that affirmative action penalizes their ethnic group for academic achievement. However, it is important to look at the whole spectrum of affirmative action and to remember that success in the classroom does not equal success in the workplace. Proposition 209 deceives voters into thinking that they are voting for civil rights when they are actually voting to nullify some rights as we know them. Under Proposition 209 the following types of educational programs will be subject to legal challenge: (1) state education codes that require inclusion of material on the Holocaust, Japanese internment camps, and Armenian atrocities; (2) programs and centers for ethnic and women's studies; and (3) curricular units for courses on women and minorities. History shows that equal opportunity has never come about through voluntary means or human goodwill. Affirmative action has only been in existence for 30 years, and it has never been accepted fully nor implemented in a good faith manner. Affirmative action deserves more of a chance. California's problems are too complex to be eliminated by an ill-defined constitutional amendment. (Contains one table and three graphs.) (SLD)
of Civil Rights: TAKING ON the Initiative

“There is no moral or constitutional equivalent between a policy that is designed to perpetuate a caste system and one that seeks to eradicate racial subordination... [It is] the difference between a ‘No Trespassing’ sign and a welcome mat.”

— U.S. Supreme Court Justice John Paul Stevens, 1995
Leadership Education for Asian Pacifics, Inc. (LEAP) is a national, nonprofit, nonpartisan organization founded in 1982. Our mission is to achieve full participation and equality for all Asian Pacific Americans (APAs) through leadership, empowerment, and policy.

In 1992, LEAP founded the Asian Pacific American Public Policy Institute, the only national policy center dedicated to examining public policies as they impact Asian Pacific Americans. Since its founding, the Institute has become a leading source of Asian Pacific American demographic and policy-oriented information, supplying vital information to top government and elected officials, academicians, business and community leaders.

Why does LEAP oppose Proposition 209?

As a leadership organization that raises awareness on policy issues impacting our communities, we feel a special responsibility to our constituents to address the deceptively named “California Civil Rights Initiative,” hereafter referred to as Proposition 209, and to articulate LEAP’s position against this measure.

Proposition 209 is a statewide constitutional amendment initiative. Californians will vote on it November 5 of this year. As a constitutional amendment, Proposition 209, if passed, will eliminate all statewide affirmative action programs and will have far-reaching impact on the lives of all Californians.

We are alarmed by the misinformation surrounding Proposition 209. Contrary to its title, this “civil rights” initiative is an extreme and unnecessary measure that actually undermines further advances in civil rights.

This is why we, as an organization, feel that we must speak out against Proposition 209.

APAs and Affirmative Action

Differences in opinion abound within the Asian Pacific American community about affirmative action. These differences reflect the disparate life experiences that Asians have had in this country, and are rooted partly in the misunderstanding that affirmative action benefits only those who are “unqualified.”

Many Asian Pacific Americans have focused their attention on affirmative action in the narrow framework of college admissions. In this regard, they believe that affirmative action works against Asian Pacifics, unfairly penalizing them for their academic achievement at the expense of “lesser qualified” minorities.

While it may be true that some Asian groups are no longer included in affirmative action programs in higher education, we must consider affirmative action in broader terms. Affirmative action programs encompass not only education and admissions, but also address employment discrimination and contracting barriers.

As many working Asian Pacific American professionals familiar with the very real presence of the glass ceiling will attest: success in the classroom does not guarantee success in the workplace. Asian Pacific Americans — virtually nonexistent in the highest levels of government and management — are affected by discrimination in the workplace as much as, and perhaps even more than, Latinos and African Americans.

Some Asians reason that, because they are qualified, they do not need affirmative action. Some may believe that Asian Pacific Americans don’t need affirmative action because they can succeed on their merit alone. These same people may also believe that Asians should not be associated with affirmative action because it is something needed primarily by African Americans or Latinos, and for Asians to be lumped into that same category is a stigma.

LEAP believes that merit is a misleading ideal, and that test scores and grades are not necessarily the most accurate measure of a person’s intelligence nor of his/her potential. Further, the “stigma” of belonging to a certain group points more to the underlying racial attitudes that minorities are unqualified and need special assistance. These attitudes existed long before affirmative action; affirmative action did not create this descending message — it merely exposed widespread societal racism for what it is.

LEAP is concerned that Asian Pacific Americans will be used as a wedge group in this explosive issue. Numbering 8.8 million in the U.S., Asian Pacific Americans are the fastest growing segment of the population, representing 3.3% of the nation and 10% of California. Asian Pacific Americans are fast becoming an influential presence socially, politically, and economically. We, as Asian Pacific Americans, must educate ourselves and determine the role that we will play in creating a just society that treats all of its citizens with fairness and respect.

We live in a race-conscious society; tensions over the nation’s shifting demographics are readily apparent in rising rates of hate crimes directed against Asian Pacific Americans, especially in California (an increase of 72% from 1994 to 1995). The notion of a “colorblind society” is naive, unrealistic, and often used to render minorities invisible.

Our future is not only dependent on how Asian Pacific Americans fare, but how society treats and provides opportunities for citizens of all racial and ethnic back-

Who Else Opposes Proposition 209?

Asian Business Association
Asian Law Caucus
Asian Pacific American Labor Alliance
Asian Pacific American Legal Center of Southern California
Asian Pacific Planning & Policy Council
Asian Pacific Women Lawyers Association
Chinese American Citizens Alliance
Japanese American Bar Association
Japanese American Citizens League

Korean American Bar Association
Korean Immigrant Workers Advocates
Los Angeles Mayor Richard Riordan
National Asian Pacific American Bar Association
National Asian Pacific American Legal Consortium
Organization of Chinese Americans
Philippine American Bar Association
Southern California Chinese Lawyers Association
Women's Organization Reaching Koreans

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PROPOSITION 209: THE CALIFORNIA CIVIL RIGHTS INITIATIVE
A proposed statewide constitutional amendment by initiative

(a) 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.

(b) This section shall apply only to action after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(f) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, community college district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violation of then-existing California anti-discrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law and the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Proportion 209: The California Civil Rights Initiative

Symbolic Effects
The full text of Proposition 209 is remarkably brief (see box). The framers of Proposition 209 have cleverly tapped into the sympathies—and frustrations—of California voters. Upon first reading, the initiative appears to be a simple, commonsense salve designed to smooth over California's fracturing state of social and economic affairs. However, closer scrutiny reveals Proposition 209's oversimplified language is deceptive, and its ambiguity is dangerous.

Purporting to bar the state from granting preferential treatment to individuals or groups on the basis of race, sex, color, ethnicity or national origin, Proposition 209 attempts to ensure equal opportunity for all. Yet, when discrimination has such a long and defiant history, equal opportunity cannot be packaged in such simplistic terms.

Numerous polls have shown that people of all races agree that "preferential treatment" is an abhorrent concept that runs counter to the American principle of equal opportunity. To equate "preferential treatment" with "affirmative action" is a deceptive strategy to confuse and divide voters along racial lines.

In as racially diverse a state as California, the passage of Proposition 209 would send a powerful symbolic message to all of its residents, as well as to the rest of the nation: people of color will feel that passage of Prop. 209 is a racist put-down of them; Whites will feel that it is a way to end reverse discrimination against them.

The 1964 Civil Rights Act and the California Fair Housing Act prohibit any type of discrimination, protecting white men in the same way that women and minorities are protected. Why is further legislation necessary, when anti-discrimination provisions are already in place?

Claims of reverse discrimination are unfounded, yet true equality has still not been attained. Perhaps we should question what Proposition 209 supporters are really striving for: colorblind equality or the perpetuation of a discriminatory status quo?

Practical Effects
The California Constitution already provides for the equal protection of civil rights for all. Proposition 209 deceives voters into thinking they are voting for civil rights, when in actuality, they are voting to nullify civil rights as we know it. This proposal amends the language of the Equal Protection Clause of the California Constitution in order to gut sex
Affirmative action programs for women and minorities.

Proposition 209 will eliminate programs that seek to equalize opportunities for underrepresented minorities, women, and the disabled, yet it provides no alternatives. A flawed, zero-sum approach to public policy, Proposition 209 will not provide any incentive for discriminatory practices to change. Instead, it will only help to perpetuate institutional biases that have been repeatedly shown to deny help to perpetuate institutional biases that have been repeatedly shown to deny opportunities to people of color.

Incredibly, Proposition 209 also legalizes sex discrimination, amending the California Constitution to read that the exclusion of women from certain jobs and contracts may be "reasonably necessary." The initiative also fails to prohibit discrimination based on age, religious beliefs or sexual orientation.

Numerous state programs will be at risk of being eliminated. If passed, Proposition 209 will affect every level of education — elementary, secondary, college, and university.

We cannot look at the needs of Asian students in isolation of others, and cannot afford to approach the affirmative action issue with such a narrow-minded perspective. The lack of adequate educational opportunities is a multiracial problem, just as the persistence of discrimination in the workforce is a multiracial problem.

We should all view education as a mechanism to socially integrate society, to prepare people for leadership and to become better citizens. More important than who you are when you enter school, is the potential for what you become when you finish school. All Americans should therefore have a legitimate interest in striving for a diverse learning environment for our students. We live in a pluralistic society and compete in a global economy. A good education allows students to learn to interact and to effectively work with people of diverse backgrounds.

Closing the Doors of Opportunity

Affirmative action programs in employment are specific, results-oriented procedures used to correct or to compensate for past or present discrimination or to prevent discrimination from recurring. Affirmative action does not require quotas.

WHAT IS AT RISK IN EDUCATION?

If passed, Proposition 209 will affect every level of education — elementary, secondary, college, and university.

Educational curricula, administration, student admissions, facilities, and K-12 magnet programs will be impacted. Specific examples of education programs that will be subject to legal challenge include:

- State education codes which require inclusion of material on the Holocaust, Japanese internment camps, and Armenian atrocities
- Programs and centers for ethnic and women's studies from elementary education through colleges and universities
- Curricular units for courses on women, racial or ethnic minorities
The fact remains, however, that racial underrepresentation in the American workforce is to neutralize the effects of past discrimination. The purpose of these tools includes outreach, recruitment, and training and promotion, and holding employers accountable to non-discriminatory practices. The purpose of affirmative action is to neutralize continued discrimination by opening opportunities to qualified people who have been traditionally left out, and therefore, underrepresented in the American workplace and economy.

The fact remains, however, that racial and gender-based discrimination in employment remains a widespread national problem, as documented by ample evidence in research conducted over the last several years, most notably by the U.S. Department of Labor's Federal Glass Ceiling Commission. Corroborating data has also been compiled by the U.S. General Accounting Office, the U.S. Commission on Civil Rights, the U.S. Equal Employment Opportunity Commission, and the Congressional Research Service.

Proposition 209 will also attack current outreach and recruitment efforts of the type that have opened the doors of opportunity for countless Asian Pacific Americans who have gained employment in fields as diverse as teaching, law enforcement, and fire fighting. Targeted outreach and recruitment programs which seek to recruit women or racial and ethnic minorities will be considered "preferential treatment" under Proposition 209, and will therefore be prohibited.

Consider the following:

- Disproportionately few APAs rise into executive/managerial positions; American-born APAs are more likely than foreign-born Caucasians to occupy the lower levels of the engineering profession.
- Less than 0.3% of senior executives in the U.S. are of Asian descent. In a 1992 survey, APA men held less than 0.2% of the seats on the boards of public Fortune companies. APA women held less than 0.01% of these seats.
- Asian Pacific faculty have one of the lowest tenure rates of all minority groups — 41% versus an overall tenure rate of 52%. At the other end, APA faculty have the highest ratio of all minorities for non-tenure track appointments — 31% to 35% of all APA faculty members are in non-tenure track positions.
- In 1994, race was the most cited basis for discrimination in the growing caseload of charges brought before the EEOC, increasing by 16.4% from previous levels.

Proposition 209 will make it more difficult for state entities to justify having an affirmative action program. Rather than accepting an employer's voluntary admission of discriminatory practices, Proposition 209 will require them to justify such discrimination through litigation — adding to legal costs and the current backlog in court cases — before allowing them to institute any affirmative action programs.

Shutting Out APA Public Contractors

Asian Pacific American-owned businesses still have great difficulty gaining access to state government contracts. Historically, many local governments discriminated against Asian Pacific Americans, refusing to award them contracts. The effects of this past discrimination persist as government agencies typically hire companies with existing connections to public contracting systems.

In the absence of specific actions and methods of accountability to address these attitudes, change will not be made. Many minority, women, and disabled-owned businesses face a vicious cycle in contracting: because they may lack a track record of work experience, they have less financial stability and bondability, which in turn prevents them from being able to bid on contracts. Affirmative action in public contracting recognizes these handicaps and compensates disadvantaged businesses.

COMPARATIVE EARNINGS OF WHITES AND APAS

- White doctoral scientists and engineers earn 8% more than their Asian Pacific American colleagues.
- White college graduates earn 11% more than their APA counterparts.
- White high school graduates earn 26% more than their APA counterparts.

MODEST PROGRESS...

Employment as Officials and Managers at California's Major Companies

<table>
<thead>
<tr>
<th></th>
<th>1975</th>
<th>1993</th>
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</thead>
<tbody>
<tr>
<td>Male</td>
<td>82.5%</td>
<td>67.1%</td>
</tr>
<tr>
<td>Female</td>
<td>17.5%</td>
<td>32.9%</td>
</tr>
<tr>
<td>Anglo</td>
<td>89.9%</td>
<td>79.0%</td>
</tr>
<tr>
<td>African American</td>
<td>2.6%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Latino</td>
<td>4.8%</td>
<td>8.3%</td>
</tr>
<tr>
<td>Asian-Pacific Islander</td>
<td>2.3%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Native American</td>
<td>0.6%</td>
<td>0.5%</td>
</tr>
</tbody>
</table>

CUMULATIVE PERCENTAGE

1990 California Population

<table>
<thead>
<tr>
<th></th>
<th>1990 California Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>50.1%</td>
</tr>
<tr>
<td>Female</td>
<td>49.9%</td>
</tr>
<tr>
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<td>57.2%</td>
</tr>
<tr>
<td>African American</td>
<td>7.4%</td>
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<tr>
<td>Latino</td>
<td>9.6%</td>
</tr>
<tr>
<td>Native American</td>
<td>0.8%</td>
</tr>
</tbody>
</table>

To illustrate this lack of access to public contracts, a 1991 study examined the San Francisco school district's contracting practices. Asian Pacific American construction contractors — about 20% of the available pool of San Francisco construction firms — were receiving only 5% of the total contracting dollars awarded for the school district's construction contracts.

This study found that: 1) minority contractors were repeatedly rejected even when they submitted the lowest bid, 2) the district had no clear and consistent contracting procedures, 3) district staff manipulated the procedures to favor certain contractors, and 4) the staff withheld information from minority contractors, ignoring its own outreach policies. Two years later, with the assistance of mandated affirmative action programs, Asian contractors received 17.35% of the school districts' prime contracts.

The experience of Asian Pacific American contractors in San Francisco is far from unique. Since 1989, over 20 studies conducted by various local governments in California have concluded that Asian Pacific American and other minority businesses still face significant discriminatory barriers in competing for government contracts.

In 1988, the state of California passed AB 1933, recognizing that California was sending out $2 billion worth of contracts and purchases with a mere 1% of that amount going to minorities and women in 1988. This law recognizes discrimination against minorities, women, and the disabled in the public contracting context and sets forth the following goals for granting public contracts:

- 15% to minority-owned businesses
- 5% to women-owned businesses
- 3% to disabled-owned businesses

Proposition 209's language, as written, will reduce opportunities for minority and women-owned businesses to compete in the public contracting bidding process. The construction industry has, by and large, been closed to Asian Pacific Americans; APAs nationwide comprise less than one percent of construction unions. By removing the proactive measures to bar discrimination against these minority firms, Proposition 209 will shut Asian Pacific Americans out of a system that will inevitably favor firms with longer histories of public contracts.

**Social Implications of Eliminating Affirmative Action**

In his widely quoted "I have a dream" speech, Dr. Martin Luther King, Jr. envisioned a society which "judged people based on the content of their character rather than the color of their skin." Some Proposition 209 backers have claimed that Dr. King's remarks should be interpreted to mean that he would have opposed affirmative action because it violates the notion of a colorblind society.

This view fails to acknowledge the context of Dr. King's remarks, which envisioned a time when all races would be equal. Sadly enough, this equality has not been achieved in the three decades since Dr. King made that speech. For Proposition 209 supporters to suddenly call for a colorblind society is not only wrong, it insidiously undermines the spirit of Dr. King's message.

Whether we like it or not, California is already a multicultural, multilingual state. Over half of California's children are African American, Asian Pacific, and Latino. One out of three children speak a language other than English at home. One out of five was born in another country. In less than five years, whites will represent less than 50% of the state population.

The changing demographics are real. Our education institutions, workforce, and businesses are already beginning to reflect these demographic shifts. Given this reality, we must ask ourselves if we need to take affirmative steps to ensure all people have equal opportunity to participate fully in all facets of our society.

History tells us that equal opportunity has never been provided by voluntary means or by human goodwill. History also tells us that affirmative action has been an evolutionary process — one that came into being when presidential executive orders dating as far back as 1941 were ineffective in combatting widespread discrimination.

Affirmative action has been in existence for only 30 years, and it has never been fully accepted nor implemented in a good faith manner. In spite of the roadblocks, we have made some progress, yet much more remains to be done before we can sit back and proclaim victory.

California's lingering problems of social justice and equal opportunity are far too complex to be eliminated by an ill-defined constitutional amendment. We must look at the broader social implications of totally eliminating affirmative action without any other alternatives.

For these very reasons, Proposition 209 must be defeated.
FACTS ABOUT LEAP

Leadership Education for Asian Pacifics (LEAP) is a national, nonprofit, non-partisan, educational, community-based organization founded in 1982 by a cross section of Asian Pacific American leaders. From its inception, LEAP has developed, strengthened, and expanded the leadership roles played by Asian Pacifics in all sectors of American society.

With ambitious enterprise and purpose, LEAP fills a vital need for leadership development in the Asian Pacific American community. LEAP is uniquely positioned to help Asian Pacific Americans address their needs and opportunities.

Mission and Goals
LEAP's mission is to achieve full participation and equality for Asian Pacific Americans through leadership, empowerment, and policy. LEAP's goals to achieve this mission are to:

- Develop Asian Pacific American leadership in the private, public, and community sectors
- Develop the skills and resources of Asian Pacific American communities to increase both individual and organizational effectiveness
- Increase public understanding of Asian Pacific concerns and their impact on policy formulation and decision-making at local, regional, and national levels.
- Improve cross-cultural and inter-ethnic collaboration and interaction.

Leadership Management Institute (LMI)
THE WORKSHOP SERIES enhances professional leadership skills among Asian Pacific Americans and addresses cultural diversity issues. LMI workshops include:

- Assertiveness Training for Asian Pacifics
- Bridging the Gap: Key Issues in Understanding Asian Pacific Americans
- Cultural Diversity: Understanding the Asian Pacific American Community
- Managing the Asian Pacific Career
- Risk Taking: Making Changes Happen
- Understanding Your Cultural Values

THE LEADERSHIP DEVELOPMENT PROGRAM (LDP) is a five-day program designed to promote the professional development of Asian Pacific Americans in all levels of administration and management. Participants learn to enhance their leadership capacity by effectively utilizing Asian Pacific values.

Asian Pacific American Public Policy Institute (APA-PPI)
The Asian Pacific American Public Policy Institute is the only national center addressing policy issues relevant to Asian Pacific Americans. In its publications, the PPI challenges policymakers to address the needs and concerns of Asian Pacifics in the U.S. By holding regional symposia to discuss its findings, the PPI also involves local Asian Pacific communities in policy decision-making. Current publications include:

- The State of Asian Pacific America: Reframing the Immigration Debate
- The State of Asian Pacific America: Policy Issues to the Year 2020
- Common Ground... Perspectives on Affirmative Action and its Impact on Asian Pacific Americans
- Beyond Asian American Poverty
- Reapportionment and Redistricting in Los Angeles: Implications for Asian Pacific Americans

Community Development Institute (CDI)
The Community Development Institute developed in response to the urgent needs of rapidly emerging Asian Pacific American communities. Through comprehensive leadership and organizational training, CDI accomplishes three primary objectives: 1) supports existing community-based organizations; 2) promotes the cultivation of new community leaders; and 3) establishes a supportive network for mutual assistance, resource sharing, and collaborative problem-solving.

THE COMMUNITY FORUMS are designed to bring about the understanding and awareness of Asian Pacific American issues, and to establish a dialogue that recognizes the concerns of regional Asian Pacific communities. Past Forums have brought together leaders from many diverse ethnic communities to build a unified Asian Pacific American coalition and agenda.

Contact LEAP for more information about programs & activities
327 E. Second St., Suite 226
Los Angeles, CA 90012
tel 213-485-1422
fax 213-485-0050
email leap90012@aol.com
WWW http://www.leap.org/leap

J.D. Hokoyama, President & Executive Director
Linda Akutagawa, Administrative Director
Suzanne Hee, Program Manager
Gena Lew, Development Manager
LEAP
LEADERSHIP EDUCATION FOR ASIAN PACIFICS, INC.

327 East Second Street
Suite 226
Los Angeles, CA 90012
Phone: 213-485-1422
Fax: 213-485-0050
Email: leap90012@aol.com

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**3-DIGIT 100**
Ms. Patricia White
Information Specialist
ERIC Clearinghouse on Urban Education
P.O. Box 40
Teachers College, Columbia University
New York NY 10027-0040

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Printed Name/Position/Title:

Linda Akustagawa, Director, Administration

Telephone: 213-485-1495 FAX: 213-485-0050

E-Mail Address: LEAP9001Z@ADL.COM Date: 12/12/96

Organization/Address:

LEAP
327 B. 2nd St, Ste # 226.
Los Angeles, CA 90012

(over)